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MORNING SESSION

JUNE 9, 2021

(The following occurred outside the presence of the jury.)

THE COURT: Okay. Are we ready to proceed this morning?

MS. BRENNEKE: Yes, Your Honor.

THE COURT: Is Mr. Hill signed in?

THE CLERK: He's in the waiting room. I can admit him now.

THE COURT: You can admit him and bring the jury in.

(The following occurred in the presence of the jury.)

THE CLERK: All nine jurors are here, and we are waiting for the witness to turn the camera on.

THE COURT: While Mr. Hill is coming on, I want to explain to the jury why we are a few minutes late. As you probably understand, criminal defendants have some speedy trial rights. Many of the things that lead up to a trial also have time limits on them. We have to move them through the court system. I had a hearing this morning regarding a release from custody pending a hearing. It had to be expedited, and so we stole a little time from the trial. We can't have those hearings when defendants are in custody except on the time plans of the federal facility where they are housed. Anyway, we got that done.

Later in the trial, I am going to have to take more time

1 for interruptions. I will tell you when we are doing that.
2 I have some sentencings and different criminal matters that
3 will interrupt the trial later as we go along. That is what
4 happens.

5 We are now ready to go back to Mr. Hill. I believe we
6 were still on direct examination.

7 DIRECT EXAMINATION (Resumed)

8 BY MS. BRENNEKE:

9 Q Good morning, Mr. Hill. I can't hear you. I think you
10 are still muted. Can you say something?

11 A Good morning.

12 Q Great. Just as a reminder, you are still under oath from
13 yesterday. Do you recall that?

14 A Yes.

15 Q Now, I would like talk briefly about the ICE-GE0 contract
16 that's come up before with other witnesses. In your
17 position, you were actually involved in reviewing the pricing
18 that goes into the bid that GE0 submits for detention service
19 contracts with the federal government; isn't that right?

20 A Yes, in my position, I review pricing for contracts.

21 Q You reviewed the pricing for the ICE-GE0 contract, the
22 2015 contract; is that right?

23 A Yes, I participated in that contract and pricing review.

24 Q There were other executives at the regional and corporate
25 level who also reviewed that pricing, including the director

1 and CFO or the finance director, sorry, and CFO Brian Evans;
2 is that right?

3 A Yes, that is correct.

4 Q The 2015 contract is the currently operative contract
5 between GEO and ICE; is that true?

6 A Yes, that is correct.

7 Q Caiti, will you pull that up for me, please. We have
8 already admitted Exhibit 129.

9 Just so the jury understands, the documents that
10 comprise the contract include both the federal government's
11 solicitation as well as GEO's offers and bids and the
12 contract award letter; is that right?

13 A Yes, my understanding, there is language that incorporates
14 the proposal into the contract award.

15 Q So part of the contract bid process is that you provide
16 pricing and spreadsheets and other things to back up what
17 your offer is; is that right?

18 A Yes. The pricing is built internally and submitted with
19 other statements of performance or work that will be
20 completed in accordance with the request for proposal bid
21 that ICE originally would have sent out.

22 Q All right. Exhibit 129, when it is all signed, that's the
23 contract or the deal that GEO agrees with ICE it will
24 perform; is that right?

25 A Yes, the sheet in front of me is the contract award

1 signature sheet.

2 Q Why don't we take a look, please, at Page 2. Page 2 of
3 that document, it indicates that there is a period of
4 performance and that is from September 28th, 2015 through
5 September 27th, 2025; is that correct?

6 A Yes.

7 Q You are the money guy. So the billing for GEO for the
8 detention services it provides and the revenues it receives
9 is done by CLIN or client line item numbers; is that right?

10 A Yes, that is correct.

11 Q The first category of work that GEO has agreed to perform
12 and bill for under this contract is marked "CLIN 0001;" is
13 that right?

14 A Yes.

15 Q Will you pull that up, Caiti, maybe highlight that. That
16 is for detention services in accordance with the performance
17 work statements; is that right?

18 A Yes, that's correct.

19 Q GEO's pay is structured with two rates for detention
20 management services, isn't it?

21 A Yes, two rates.

22 Q Okay. Under 001-A, GEO has a minimum guaranteed daily
23 payment for 1,181 beds; is that right?

24 A Yes, we are guaranteed payment on 1,181 beds per day.

25 Q Under the 2015 contract for that first year, that was at a

1 rate of \$115.63; is that correct?

2 A Yes.

3 Q GEO is entitled to that payment regardless of how many
4 detainees are actually in the facility; is that true?

5 A Yes, that's the guaranteed minimum payment.

6 Q Caiti, if you would highlight the whole line that goes to
7 the end there.

8 So that's a guaranteed revenue stream to GEO of nearly
9 \$50 million each year; is that correct?

10 A Yes, this particular one would be for the first year of
11 the contract, which included the leap day, but the
12 calculation would be \$49,980,604.

13 Q When the jury gets this contract back in the deliberation
14 room, it's a lot longer than just this first page, but each
15 successive year GEO has a built-in increase in the rate its
16 earning; is that right?

17 MS. SCHEFFEY: Objection. I am going to object to
18 the relevance of this, in that it's not tied to the voluntary
19 work program at all.

20 THE COURT: Overruled.

21 BY MS. BRENNEKE:

22 Q Mr. Hill, you can answer then.

23 A Yes, I believe there is an increase in each contract year
24 at the contract anniversary date.

25 Q We can take away that highlight, and then just for

1 completion here, the 001-B, that is the additional payment
2 that GEO receives for daily bed days for detainees over the
3 minimum and up to 394 beds to the capacity of the facility;
4 is that right?

5 A Yes, that's the rate for any beds occupied above the
6 minimum guarantee of 1,181.

7 Q The bed-day rate in this contract is an all-inclusive,
8 fully-burdened rate, that's the language you use; is that
9 right?

10 A The language in the contract speaks to a fully-burdened,
11 all-inclusive rate.

12 Q That includes everything that GEO has to spend in order to
13 provide those detention management services and earn a
14 profit, doesn't it?

15 A Yes, that would be inclusive of all the expenses
16 associated with this project to operate the facility.

17 Q If we look, please, at Page 46. It is Bates stamp 036870,
18 the bed-day rate is defined there. That is what you just
19 said, I think, which is it is inclusive of all direct costs,
20 indirect costs, overhead and profit necessary to provide the
21 detention and food service requirements described in the
22 performance work statement; is that correct? Did I read it
23 correctly?

24 A Yes.

25 Q Okay. The built-in profit margin that is built in to that

1 rate that you have -- that GEO has agreed to is a ten percent
2 projected net profit; isn't that correct?

3 A I believe that is what the pricing on this project was,
4 was a ten percent margin, net margin on the revenues.

5 Q That was a net margin over all direct and indirect costs,
6 including even the administrative overhead and facility
7 expenses allocated to the Northwest Detention Center; is that
8 right?

9 A For all the indirect costs that are allowable under FARS,
10 yes, that would be inclusive of those.

11 Q Can you take a look, please, at Exhibit 184?

12 A Yes.

13 THE COURT: 184?

14 BY MS. BRENNEKE:

15 Q Is that an email from GEO's executive vice president that
16 includes the final pricing workbook for the 2015 GEO-ICE
17 contract?

18 A Yes, that's from Matt Donato (phonetic), who is our
19 executive vice president of pricing, to Amber Martin saying
20 this is the final pricing workbook.

21 Q You verified that this really is the final, that the
22 per diem rates in the pricing workbook match the 2015 GEO-ICE
23 contract that we have just looked at, Exhibit 129; is that
24 right?

25 A Yes, this matches the contract rates.

1 MS. BRENNEKE: I offer Exhibit 184.

2 MS. SCHEFFEY: No objection.

3 THE COURT: 184 may be admitted.

4 (Exhibit 184 was admitted.)

5 BY MS. BRENNEKE:

6 Q I am going to have you take a look at page 46 of this PDF.
7 This was produced as a native document and so it's not Bates
8 stamped, so it will be important to look on the screen. This
9 is the final spreadsheet for the GEO Group Inc. Northwest
10 Detention Center 1,575 beds pricing for ICE. That is the
11 title at the top. Do you see that?

12 A That's what it appears to be.

13 Q Does this page show all the details of the direct and
14 indirect costs that make up the basis for the fully-burdened
15 per diem bed-day rate?

16 A Can you move it up a little bit so I can see the bottom?

17 Q It is hard to get on there, but we can. Let's see.

18 A Yes, that is correct, it has both the direct expense and
19 also the indirect expense.

20 Q So the direct expenses include GEO's total labor expenses?
21 Can you highlight that one, Caiti?

22 A Yes, that's correct.

23 Q That constitutes the total expense for GEO staff only, not
24 detainee workers, correct?

25 A That would be for GEO employees only.

1 Q Below that are all of GEO's other operational expenses; is
2 that correct?

3 A Yes, that is correct.

4 Q Below that you have "depreciation," "general,"
5 "administrative" and "overhead;" is that right?

6 A Yes, ma'am.

7 Q Then once you have that total number, you have got the
8 line item that says "ten percent profit;" is that correct?

9 A Yes.

10 Q Now, yesterday you testified that the Northwest Detention
11 Center facility, at least since about 2010, has been
12 consistently earning between 16 to 19 percent net profit;
13 isn't that true?

14 A Yes, that's been the actual experience.

15 Q That means GEO has made more than 60 to 90 percent more
16 profit on this facility than it projected and told ICE it
17 would earn in the contracting process; isn't that right?

18 A Our actual experience has been better than what the
19 pricing originally was.

20 Q GEO gets to keep all of that extra profit, doesn't it?

21 A The company earns that profit and uses it for company
22 purposes or reports it as net profit to Wall Street.

23 Q It can either be reinvested in its own business as it sees
24 fit?

25 A Yes, GEO reinvests profit into the facilities and other

1 aspects of the business.

2 Q Or GEO pays it off to shareholders; is that right?

3 A That's correct, GEO is structured currently as a real
4 estate investment trust and has requirements to pay out a
5 certain amount of profit to shareholders.

6 Q Regardless of what it does with it, GEO gets to keep that
7 extra profit, doesn't it?

8 A Yes, GEO retains that.

9 Q Now, this pricing workbook also has detail about the
10 employee staffing from the community that GEO agrees to have
11 to operate the Northwest Detention Center; is that right?

12 A Sorry, can you repeat that question?

13 Q Yeah. The pricing workbook also lays out the staffing
14 that GEO agrees to have of GEO staff from the community in
15 order to carry out the terms of the contract; is that true?

16 A Yes, there is a staffing plan listing the positions GEO
17 anticipates will be needed to operate this contract.

18 Q That represents the staffing that GEO has agreed to pay
19 and provide under its contract with ICE; is that right?

20 A Yes, that's GEO's employees that will be paid through this
21 contract.

22 Q Okay. Let's take a look, please -- there are two pages of
23 the staffing detail, Pages 51 and 52. It kind of extends.
24 Let's start with 51. That is the guaranteed staffing plan,
25 is that correct, the beginning of it?

1 A On top it says "guaranteed staffing plan, 1,575 beds for
2 ICE," so I'm not sure if this represents the entire staffing
3 plan of 1,575 or the minimum guarantee.

4 Q Okay. All right. Let's look down below on Page 52
5 because there is a summary page. I think it would be helpful
6 to start there. This summary shows that the labor costs in
7 the contract reflect 276.52 full-time GEO staff that it hires
8 from the community to work at the Northwest Detention Center;
9 is that right?

10 A Yes, that's correct.

11 Q If we go back up to Page 251, we can look at the
12 operational areas of the Northwest Detention Center that are
13 at issue in this case. Let's first look at the food services
14 staffing on Page 51. All right. Does this reflect that GEO
15 employs 13 full-time kitchen staff from the community to work
16 at the Northwest Detention Center?

17 A Yes; on this staffing plan, it is requiring 13 employees.

18 Q Okay. And that is the one manager, one assistant manager
19 or supervisor, ten kitchen officers and one clerk; is that
20 correct?

21 A Yes.

22 Q This reflects that the kitchen officers in 2015 earned
23 \$23.51 an hour; is that right?

24 A Yes, that is correct.

25 Q If we look under the category of "business" on Page 51, I

1 think that is higher up. Does this reflect that GEO employs
2 three full-time janitors in the community to work at the
3 Northwest Detention Center?

4 A Yes.

5 Q The wage paid to those janitors in 2015 was \$15.32 an
6 hour; is that right?

7 A Yes, that's correct.

8 Q Let's look again at one more category. That is the
9 "detention officers." That goes from Page 51 -- we want to
10 look at the portion, it starts "detention officers" there,
11 then we go down to 52. There is a line item for "laundry."
12 You see that? "Laundry officer, No. 213"?

13 A Yes, I do.

14 Q Does this reflect two full-time positions plus relief for
15 a total of 2.4 full-time officers from the community that GEO
16 employs to work in the laundry at the Northwest Detention
17 Center?

18 A Yes, 2.4 employees.

19 Q The wage paid to the laundry officers in 2015 was the same
20 as all other detention officer wages, 23.51 an hour; is that
21 right?

22 A Yes, that is correct.

23 Q This reflects the staffing that GEO -- I think we are done
24 with that. This reflects the staffing that GEO has agreed to
25 provide under the 2015 contract and that ICE has agreed to

1 pay for; is that right?

2 A Yes, that's correct.

3 Q There is a concept of minimum staffing that GEO agrees to,
4 which is like a floor on the staffing?

5 A Yes, so similar to the bed-day rate, there are staff
6 included in the minimum guaranteed rate, and then there would
7 be an incremental staffing plan for additional staff based on
8 the population of the facility.

9 Q GEO could also make a business decision to hire staff
10 above that minimum staffing, provided it didn't bill ICE for
11 those additional staff costs; isn't that true?

12 A GEO could make an internal decision to hire additional
13 staff based on company objectives or operational needs and
14 utilize those staff at the facility, but they would not be
15 included in the per diem rates or reimbursed by ICE if there
16 is not a contract modification.

17 Q So GEO has, in fact, unilaterally increased its GEO
18 staffing and not sought reimbursement from ICE in the past,
19 hasn't it?

20 A There have been a few instances where positions have been
21 added at GEO's discretion.

22 Q For example, sergeants were hired prior to the 2015
23 contract to provide additional management over the detention
24 officers; isn't that true?

25 A Yes, prior to 2015, GEO made the decision to add another

1 level of management at its own expense. Then it was
2 incorporated into the 2015 contract.

3 Q So after it was incorporated in the 2015 contract, GEO
4 billed ICE for the cost of those sergeants; is that right?

5 A It would have been included in the minimum guaranteed
6 man-day rate.

7 Q But for the period between when GEO hired the sergeants
8 and the rebidding of the 2015 contract, GEO just ate those
9 extra wage costs as a reduction in its profits, didn't it?

10 A Yes, that expense would just come out of our normal --
11 increase our normal operating costs, reducing our operating
12 margin.

13 Q Let's talk about the pay that GEO staff gets under the
14 terms of the ICE contract and that GEO agrees to pay under
15 the terms of the ICE contract. GEO must pay its
16 non-management employees consistently with what is referred
17 to as federal wage determination rates; is that correct?

18 A Yes, it's the Service Contract Act, so non-exempt
19 employees would be paid under the wage determination schedule
20 that is incorporated into the contract.

21 Q The wage determination rates are incorporated into the
22 contract by way of an appendix; is that right?

23 A Well, it is a contract modification each time with the
24 current wage determination schedule that the client is
25 incorporating at that time, I believe as an appendix or it's

1 a schedule.

2 Q Let's look back at Exhibit 129 at Appendix 2, which is
3 also on Page 129 of the PDF and Bates stamp 036953.

4 Mr. Hill, is this wage determination under the Service
5 Contract Act revised on 7-24-2014?

6 A This is a typical wage schedule that the Department of
7 Labor publishes. This is for Pierce County, Washington,
8 among other counties.

9 Q Pierce County is significant because that's the county
10 that the Northwest Detention Center is in, correct?

11 A Yes, that is correct.

12 Q At the beginning of this contract in 2015, GEO and ICE
13 incorporated this as the minimum wages that the GEO staff
14 would be paid, which are basically the prevailing wages; is
15 that correct?

16 A I believe the Department of Labor does a wage survey of
17 the area to determine wages and then publishes their
18 schedule, and then this would be incorporated into the
19 contract to match up to those occupation codes with our job
20 titles, and that would be the wage that ICE would be
21 reimbursing us and that would be the wage we would be paying
22 our staff.

23 Q If you take a look -- to illustrate your point, let's take
24 a look at the next page, 130. Are these the established
25 federal contract rates for employees hired to do things like

1 food preparation, cooks and dishwashers, are those the
2 prevailing wages in the region for that period?

3 A For those occupational codes, that is included in the wage
4 schedule.

5 Q In the general services area, is the prevailing wage in
6 the community for a janitor "1150," is the prevailing wage in
7 the community 15.32?

8 A That's what it is listed as on the schedule.

9 Q Would you agree that this is basically the floor that GEO
10 has agreed to pay its GEO staff? They agree to pay at least
11 the federal contracting prevailing wages for those jobs?

12 A Yes, that's a requirement to pay at a minimum the rates
13 established by the Department of Labor.

14 Q If GEO decided to, it could make a business decision to
15 pay the staff it hires from the community above the federal
16 wage determination rate; isn't that correct?

17 A Yes, GEO could make a decision to pay a classification of
18 worker higher than this rate, although it wouldn't be
19 reimbursed by ICE.

20 Q It is true that if that happens, you would just have to
21 eat those extra wage costs as a reduction in its profits; is
22 that right?

23 A Yes, if we were to pay above the schedule and that's above
24 what we priced, then that difference would reduce our
25 operating margin on the contract.

1 Q I think you maybe spoke to this before, but I want to make
2 sure the jury understands. The Department of Labor updates
3 these schedules on an annual or on a very regular basis; is
4 that right?

5 A I believe they typically update these schedules twice a
6 year.

7 Q And when there is an update, the contract becomes modified
8 so that GEO would then pay the new rates for the GEO staff in
9 accordance with the current wage determination rates; is that
10 right?

11 A Typically, annually on the contract anniversary date, ICE
12 will send a contract modification to incorporate the then
13 most current wage schedule. So it is not with every update,
14 it is with the current wage schedule at the contract
15 anniversary date where ICE would incorporate a new wage
16 schedule into the contract.

17 Q Because GEO has agreed to follow that, if the wages for
18 janitors, for example, goes up, GEO would basically give them
19 a raise, they would incorporate that into their personnel
20 human resources materials and pay them more, right?

21 A So if the wage schedule increases rates, GEO passes that
22 increase on to its employees. And because it has been
23 incorporated through a contract modification, GEO can request
24 an equitable adjustment from the government to be reimbursed
25 for the change in rates.

1 Q Then ICE would reimburse you; is that right?

2 A ICE would adjust the per diem rates to cover the cost, the
3 additional costs from the incorporation of the new wage
4 schedule.

5 Q Now let's talk about detainee workers specifically. In
6 addition to the employees hired from the community, GEO also
7 has detainees who work at the Northwest Detention Center as
8 part of the voluntary work program; is that right?

9 A GEO, as part of the contract with ICE, has a voluntary
10 work program established at the facility.

11 Q In that program, GEO pays the detainee workers a dollar a
12 day by putting the payment into the detainees' books for the
13 day that they work in the voluntary work program; is that
14 right?

15 A Yes, for the detail that the detainee works, you know,
16 through the process, the business office would enter a dollar
17 onto a trust account for that detainee who participated.

18 Q And then under the 2009 and 2015 contracts, GEO would seek
19 reimbursement from ICE through monthly invoices for the wages
20 it paid to the detainees; is that true?

21 A Yes. There is a separate CLIN in the contract for the
22 voluntary work program where ICE will reimburse GEO the
23 actual cost of a dollar a day for the detainees
24 participating.

25 Q That is CLIN 3; is that true?

1 A I believe so.

2 Q I would like you to take a look at Exhibit 269.

3 A Okay.

4 Q Is that a spreadsheet of the monthly volunteer work
5 payment reimbursements from ICE to GEO from October 2009 to
6 through September of 2019?

7 A That's what it appears to be. There is not a header.
8 That is what it appears to be to me.

9 Q Does this appear to be a true and accurate representation
10 of the reimbursements from ICE to GEO for that period?

11 A Just based on the normal review, the numbers seem
12 consistent with what the program would have been billed back
13 to the client at.

14 MS. BRENNEKE: I offer Exhibit 269 for admission.

15 MS. SCHEFFEY: I object that he didn't recognize the
16 document. He just described what it appeared to be. He
17 didn't say he made it or he knew who made it.

18 MS. BRENNEKE: Your Honor --

19 THE COURT: Just a minute. Whoever put these exhibit
20 books together must have got them at the Cheap Charlie's
21 Office Supply. They don't stay together very well.

22 MS. BRENNEKE: That's too bad, Your Honor. Sorry
23 about that.

24 THE COURT: I think the exhibit has been sufficiently
25 identified and may be admitted.

1 BY MS. BRENNEKE:

2 Q Why don't we publish that to the jury. On the left, we
3 see the months and across the top we see the years; is that
4 correct, Mr. Hill?

5 A Yes.

6 Q For each month throughout the period that this covers, the
7 dollar amounts reflect the reimbursements from ICE to GEO for
8 detainee wages; is that right?

9 Can we blow that up? It is hard to see. That's
10 better. Thank you so much.

11 A Yes, that appears to be the amount billed for the
12 voluntary work program.

13 Q So for the months it reflects, every one of these dollars
14 also represents payment by GEO of a dollar per day of work by
15 a detainee worker; is that right?

16 A Should reflect a dollar per detail worked.

17 Q And would you agree this shows that detainee work and
18 payments for that work was consistent over time as reported
19 in this spreadsheet?

20 A Yeah, they look fairly consistent. You have a couple
21 months slightly higher and slightly lower, but they seem to
22 be relatively consistent over time.

23 Q The reason you can identify that each of these dollars
24 represents a shift of detainee work is because GEO has
25 consistently paid a dollar a day for work in the Northwest

1 Detention Center to detainee workers from 2009 to present,
2 correct?

3 A Yes, that's what the program requires and our contract
4 requires, a dollar per detail.

5 Q Let's talk about that. So you are aware of circumstances
6 in which GEO actually has paid detainee workers more than a
7 dollar a day for their work at the Northwest Detention
8 Center; isn't that true?

9 A Yes, I was aware of three individual instances where there
10 might have been more than a dollar a day paid.

11 Q Okay. What were those instances, Mr. Hill?

12 A In one instance, I believe the facility had been
13 quarantined for a chickenpox outbreak, and to get the one
14 dorm that was available to work in the kitchen who were
15 medically cleared, the facility offered to pay five dollars a
16 day. The second time was a barbershop employee -- sorry,
17 barbershop detainee who worked sporadically was allowed to
18 pick up another job detail in a separate location, and at
19 times they overlapped and so they received two dollars a day,
20 one for each detail.

21 And then the final one, I believe, related to laundry
22 workers who were folding clothes in the female housing unit
23 who were allowed to participate in another work detail to
24 leave the housing unit after hours. Each of those were
25 discussed with ICE ahead of time and lasted for various

1 periods, but relatively short periods.

2 Q In addition to those times when detainees were asked to
3 work more than one shift a day, you are also aware that there
4 have been temporary situations where detainee workers were
5 not available to work, like in the chickenpox situation or
6 during a work stoppage; is that right?

7 A Yes, it's a volunteer program so there's times when
8 detainees choose not to participate, do not show up for their
9 detail.

10 Q During times when there is a substantial reduction of
11 detainee workers, GEO would adjust its staffing, deploy
12 additional staff and potentially increase overtime of
13 existing staff to complete the work that detainees would have
14 otherwise performed; is that right?

15 A Yes, management at the facility would either redeploy
16 staff to areas that would need to function, whether it is the
17 kitchen or laundry, so you could do that by redeploying
18 staff, using part-time staff, using overtime, because at the
19 end of the day, regardless of whether there is the voluntary
20 work program and there is participants in it, the facility
21 has to continue to function.

22 Q From the financial perspective, if GEO incurs additional
23 labor and overtime expenses to make up the work that is not
24 done through the voluntary work program, that reduces the
25 operating margin and makes a negative impact on GEO's bottom

1 line; isn't that true?

2 A If the functions couldn't be done through a redeployment
3 of staff assigned to the facility, if additional hours or
4 overtime needed to be worked, it would have a small impact on
5 the overall operating margin.

6 Q You are not aware of any time that GEO has paid detainee
7 workers who work at the Northwest Detention Center the
8 minimum wage; is that correct?

9 A No. From my recollection, GEO has never paid a voluntary
10 work program participant a minimum wage, the State of
11 Washington minimum wage.

12 Q I have an accounting question then for you. If GEO made
13 the business decision to pay detainee workers Washington
14 minimum wage, under GEO's contract with ICE, GEO would still
15 be reimbursed only a dollar a day; is that right?

16 A If GEO were to pay above the dollar per detail and ICE
17 stated in the contract the amounts to be reimbursed is the
18 actual cost of a dollar per detail, GEO would not be
19 reimbursed by ICE under the current contract.

20 Q So in those situations, GEO would have to eat those
21 additional wage costs as a reduction of its profit; is that
22 true?

23 A I am not sure why GEO would make the business decision to
24 pay the wages for people who aren't employees, but if we
25 decided to increase an expense that the client wouldn't

1 reimburse, that would reduce our operating margin.

2 Q In fact, GEO has done just that in the past, it's chosen
3 to use detainee workers regardless of whether or not it was
4 reimbursed by ICE; isn't that true?

5 A For those three periods, I believe only the one situation
6 with the kitchen workers weren't reimbursed by ICE, but I
7 would have to review the actual billing. I don't have a
8 solid foundation of knowledge to talk about those other two
9 situations where the double details on a day were performed.

10 Q I would like you to take a look at Exhibit 262, please.
11 Are you familiar with the expanded financial summary for the
12 Northwest Detention Center?

13 A I am.

14 Q Did you prepare the summary?

15 A No, I did not.

16 Q Are you familiar with the contents?

17 A Yes.

18 Q From your knowledge, is this a true and accurate
19 representation of the finance of the Northwest Detention
20 Center from 2005 to 2019?

21 A Yes, this looks fair and accurate.

22 MS. BRENNEKE: I offer Exhibit 262 for admission.

23 MS. SCHEFFEY: No objection.

24 THE COURT: It may be admitted.

25 (Exhibit 262 was admitted.)

1 BY MS. BRENNEKE:

2 Q Now, Mr. Hill, this summary is similar to Exhibit 253 that
3 you testified to before, but includes a lot more detail on
4 the costs and revenues of the facility; is that correct?

5 A Yes, this looks like a more detailed, expanded view of
6 that.

7 Q In fact, it also includes a line for detainee worker wages
8 in two locations; isn't that true?

9 A Yes.

10 Q The first location that detainee wages is listed is under
11 "revenue," do you see that? Can we blow up the revenue,
12 maybe blow up the whole revenue section so everyone can see
13 it? Thank you.

14 Let's go back. The first place detainee wages shows up
15 is under revenue. It says, "58013 billable inmate payroll;"
16 is that correct?

17 A Yes, below "earned revenue," underneath "pass-through
18 revenue," it lists the account 58013 to represent the amount
19 reimbursed by ICE.

20 Q That's what I was wondering. So that shows the
21 reimbursement that GEO got from ICE for wages it paid
22 detainee labor in each of those years; is that right?

23 A Yes, that's what that would be.

24 Q And that shows reimbursements from 2010 through 2019; is
25 that true?

1 A Yes, ma'am.

2 Q Now, there is another section, the lower section that
3 relates to operating costs. Let's try to blow that one up
4 now. Here, there is another section for detainee payroll; is
5 that right?

6 A Yes, ma'am.

7 Q And in this section, detainee payroll is treated as an
8 expense of the Northwest Detention Center; is that right?

9 A Yes, that's listed as operating expense.

10 Q That's because for those periods of time, GEO didn't bill
11 or get reimbursed from ICE for detainee payroll that it paid;
12 is that correct?

13 A That would be what I would expect. The reason why there
14 is an expense there is that that represents an amount that
15 was not reimbursed.

16 Q So from 2006 through 2009, those expenses were \$50,983 for
17 2006, \$61,525, \$61,709, \$59,227; is that right?

18 A Yes.

19 Q That reflects the number of detainee work shifts that GEO
20 asked detainees to work in the Northwest Detention Center; is
21 that true?

22 A That would be a dollar per detail in accordance with the
23 program.

24 Q And then in 2010, 2011 and 2018, looks like there was a
25 little of both. There was earned income during those years

1 where GEO did get reimbursed, but there were some extra
2 expenses that GEO chose to incur over the contract minimum
3 that were treated as operational costs or expenses; is that
4 true?

5 A There were the reimbursed costs, and then there were some
6 small amounts that reside in detainee payroll as an expense.
7 You know, from 2010, 6,242 hours; 2011, 1,262. In 2012, there
8 was a credit of \$300, which might have been a timing issue
9 for December 2011. Looks like in 2018, \$928.

10 Q So for each of those years, GEO was paying a dollar a day
11 and getting reimbursed a dollar a day for its wages, it chose
12 to incur additional expenses maybe for additional workers,
13 maybe because it was paying more than a dollar; is that
14 right?

15 A I couldn't speak to the exact reason why it wasn't
16 reimbursed. It could have been an accounting issue where
17 items were received after they completed the bill, and it was
18 a small amount that GEO did not go back to ICE to adjust the
19 bill for reimbursement. It might be that there were
20 situations that we just discussed that are included in those
21 numbers. I don't create the bill, so I couldn't speak to
22 what exactly those numbers represent in each instance.

23 Q Okay. But as an accounting matter, if GEO were to make
24 the decision to pay detainee workers minimum wage, it would
25 be shown on your accounting summaries like detainee payroll

1 as an operational expense; is that correct?

2 A If GEO were to pay more than the reimbursed amount, we
3 would have to account for it as an expense.

4 Q All right. And regardless of the form of the accounting,
5 what is clear from this exhibit is that GEO has paid detainee
6 wages from 2006 through 2019 for their work at the Northwest
7 Detention Center and carefully accounted for those wages in
8 its financial accounting; isn't that true?

9 A We record the pass-through expense and pass-through
10 revenue and, yes, we follow GAAP and record our expenses as
11 appropriate.

12 MS. BRENNEKE: Thank you. I have no further
13 questions.

14 CROSS-EXAMINATION

15 BY MS. SCHEFFEY:

16 Q Good morning, Mr. Hill, how are you today?

17 A Good morning. I am doing okay.

18 Q That's good. So there were a lot of numbers right there.
19 I want to back up. Can you tell me how the voluntary work
20 program is treated for purposes of GEO's financial
21 statements?

22 A We see it as a pass-through. We record the expense as a
23 pass-through expense and the revenue is a pass-through
24 revenue, which is below the "earned revenue" line. So those
25 items should offset, and there should be no impact to the

1 financial performance of the facility.

2 Q Can you explain to me simply what a pass-through is?

3 A A pass-through is a direct reimbursement. So if GEO
4 spends a set amount on something that the client has agreed
5 to pay for, as opposed to having it included in our earned
6 revenue or in our expenses, it is a separate set of accounts
7 that should balance to zero that should show no impact to our
8 financial statements. There is no markup on the revenue --
9 no markup on the expense to get higher revenue, so it is not
10 producing any margin for the company or the facility.

11 Q Does GEO profit from the voluntary work program?

12 MS. BRENNEKE: Objection to the form.

13 THE COURT: I think he may answer.

14 THE WITNESS: No. In a pass-through situation, there
15 is no margin built in. It is just a one-for-one
16 reimbursement.

17 BY MS. SCHEFFEY:

18 Q Does GEO anticipate that its staff may work overtime when
19 pricing a contract?

20 A I believe there is some overtime built into our pricings,
21 and then in our budgets, we always include overtime because
22 we know there will be situations that arise that require
23 either additional manpower or overtime to be used to
24 accomplish the missions of the facility.

25 Q Does GEO reinvest any of its profits?

1 A Yes, the company reinvests in its employees by additional
2 training above contract requirements. We invest in our
3 facilities, whether it is a physical plant investment. We
4 have added soccer fields to most of our federal facilities
5 that we own. We invest locally in the community through
6 contributions and scholarships. There is a lot of things
7 that GEO does with the margins we make at the facilities
8 before we report our actual profit to Wall Street.

9 Q Has GEO added a soccer field to the Northwest ICE
10 Processing Center?

11 A Yes, I believe they were included and have a turf area for
12 the recreation now that they didn't previously have.

13 Q Was that required by the contract?

14 A No, I believe that was not required by the contract.

15 Q When a government owns and operates a facility, can it
16 reinvest its profits in the same way?

17 MS. BRENNEKE: Objection to the form. Foundation.

18 THE COURT: Sustained.

19 BY MS. SCHEFFEY:

20 Q Does GEO need to share its reinvestment budget with
21 schools and roads?

22 MS. BRENNEKE: Objection to the form.

23 THE COURT: The objection is sustained.

24 BY MS. SCHEFFEY:

25 Q Do you know anything about government-owned facilities?

1 A We operate a few facilities that the government owns.

2 Q Do you know about how the government invests in those
3 facilities?

4 MS. BRENNEKE: Object to the form. Overly broad. No
5 foundation for Washington.

6 THE COURT: Sustained.

7 BY MS. SCHEFFEY:

8 Q Is GEO a for-profit company?

9 A Yes, we are a for-profit publicly traded company.

10 Q Did ICE know that when it contracted with them?

11 A Yes. In our response for their request for proposal, the
12 company's financials and, you know, history of the company is
13 always included.

14 Q What is your understanding of why ICE contracted with GEO
15 rather than just providing the services itself?

16 MS. BRENNEKE: Object to the form. Foundation.

17 MS. SCHEFFEY: I asked for his understanding,
18 Your Honor.

19 THE COURT: The objection is sustained. You are
20 asking for an opinion about ICE's intent. Ask ICE, if you
21 want.

22 BY MS. SCHEFFEY:

23 Q What is your understanding of why government contractors
24 exist in the detention space?

25 MS. BRENNEKE: Object to the form.

1 MS. SCHEFFEY: It is the core of their business.
2 They exist. They should know why they are in the market,
3 Your Honor.

4 THE COURT: The objection is sustained.

5 BY MS. SCHEFFEY:

6 Q Do you remember earlier we talked about how there is about
7 \$50 million in revenue each year through the GEO-ICE
8 contract, right?

9 A Yes, that's a rough average number.

10 Q About how many people are held each year at the Northwest
11 ICE Processing Center?

12 MS. BRENNEKE: I was going to object as to vague as
13 to time frame because that has shifted.

14 THE COURT: I think he may answer.

15 THE WITNESS: I don't have the exact numbers in front
16 of me. But since the facility expanded and since I have been
17 in my position in 2010, we have generally been above the
18 minimum guarantee, probably many years averaging between
19 1,300 and 1,350 detainees, a few times being above 1,450,
20 sometimes being below the minimum guarantee, especially
21 during the pandemic last year and currently.

22 BY MS. SCHEFFEY:

23 Q Do you know how many detainees that would be on an
24 annualized basis, how many detainees are in and out?

25 MS. BRENNEKE: Same objection.

1 THE COURT: I don't understand your question.

2 Sustained.

3 BY MS. SCHEFFEY:

4 Q Let's pull up Exhibit 36. We can go to the fifth page of
5 the document, which is GEO-State 029839. If we can blow up
6 the part that says how many processed admissions and
7 releases. Do you see this number on your screen, Mr. Hill?

8 A Yes.

9 Q So if the Northwest ICE Processing Center -- I'll
10 rephrase. How many releases does it say there were from the
11 Northwest ICE Processing Center?

12 A 7,267 releases.

13 Q Does that number correlate with the number of people who
14 would have been released from the facility?

15 A Yes, this is a report for 2014, that states that during
16 that year there were 7,267 individuals released from the
17 facility.

18 Q So I might be putting you on the spot here with math. We
19 will see if it is a mistake, but if you take \$50 million and
20 divide it by 7,000, what is the answer?

21 A Wow.

22 MS. BRENNEKE: Object, relevance.

23 THE COURT: Sustained.

24 MS. SCHEFFEY: I am trying to lay the foundation.

25 THE COURT: Anybody can use the computer to figure

1 out those things. It is not fair to ask the witness to do it
2 without that kind of assistance unless Mr. Hill is a
3 mathematical genius, and he may be.

4 BY MS. SCHEFFEY:

5 Q Do you have any sense of how much you -- you can take the
6 exhibit down. How much money per detainee that \$50 million
7 works out to?

8 MS. BRENNEKE: Object to the form. Vague.

9 THE COURT: No, I think he may answer.

10 THE WITNESS: Just a rough calculation, I expect it
11 to be probably 70 to \$75 per detainee per day. That would
12 be, I believe, 20 -- sorry, my math is not that good right
13 now.

14 BY MS. SCHEFFEY:

15 Q I'm sorry, Mr. Hill. That's fine. You said about \$75 per
16 day per detainee; is that right?

17 A I think that's roughly what it would come out to.

18 Q Do you know if that number includes a guaranteed minimum
19 wage job?

20 MS. BRENNEKE: Object to the form.

21 THE COURT: I'm sorry. I don't understand the
22 question. Rephrase.

23 BY MS. SCHEFFEY:

24 Q So you spoke earlier about a bed-day rate; is that
25 correct?

1 A Yes.

2 Q The combination of the bed-day rates, that's how you get
3 to \$50 million per year; is that correct?

4 A That is correct.

5 Q Does the bed-day rate contemplate a minimum wage job for
6 each detainee?

7 MS. BRENNEKE: Object to the form.

8 THE COURT: I think he may answer.

9 THE WITNESS: No, that wouldn't have been
10 contemplated in the pricing and therefore would not be
11 included in the bed-day rates.

12 BY MS. SCHEFFEY:

13 Q If you added a minimum wage job to the pricing, what would
14 happen? Would it go up or down?

15 A Just a job in general? An additional employee?

16 Q If you added as an option for detainees a guaranteed
17 minimum wage job, would the bed-day rate go up or down?

18 MS. BRENNEKE: Objection, form.

19 THE COURT: Well, the objection is sustained.

20 BY MS. SCHEFFEY:

21 Q If detainees were paid minimum wage, would the price of
22 the contract go up or down?

23 MS. BRENNEKE: Objection, speculation.

24 MS. SCHEFFEY: Your Honor, he's laid the foundation
25 on direct that he prices these contracts and reviews them.

1 THE COURT: The objection is overruled. The witness
2 may answer.

3 THE WITNESS: That would increase the cost to GEO and
4 the cost to the client. We pass that on to ICE in a pricing,
5 so the cost for the bed-day rate would increase.

6 BY MS. SCHEFFEY:

7 Q Do you know where ICE gets its funding from?

8 A Federal government.

9 Q Do you know where the federal government gets its funding
10 from?

11 A Taxpayers.

12 Q Do you have knowledge of whether there are any voluntary
13 work programs across the country that pay minimum wage to
14 detainees?

15 MS. BRENNEKE: Object to the form. Foundation.

16 THE COURT: The objection is sustained.

17 BY MS. SCHEFFEY:

18 Q As part of your job, do you review other ICE contracts?

19 A Yes.

20 THE COURT: The grounds for my ruling were it is not
21 relevant.

22 BY MS. SCHEFFEY:

23 Q Have you ever been asked to price a contract for the
24 Northwest ICE Processing Center where detainees would be paid
25 minimum wages?

1 A No, I have not.

2 Q Have you ever reviewed a request for proposal from the
3 government that asks GEO to contemplate detainees would
4 receive minimum wages?

5 MS. BRENNEKE: Object to the form.

6 THE COURT: Well, the question technically is leading
7 in form.

8 BY MS. SCHEFFEY:

9 Q Have you ever reviewed a request for proposal for the
10 Northwest ICE Processing Center?

11 A Yes, I have.

12 Q What was the rate that the request for proposal asked you
13 to contemplate for minimum wages -- or for detainees in the
14 voluntary work program?

15 MS. BRENNEKE: Object to the form, vague as to rate,
16 difference between payment and reimbursement.

17 THE COURT: The objection is sustained.

18 BY MS. SCHEFFEY:

19 Q You talked a little bit about net margin in your direct
20 testimony; is that correct?

21 A Yes.

22 Q Does the net margin account for GEO's legal fees?

23 A I don't believe that is allowable under FAR, so it would
24 not be included in the indirect allocation.

25 Q Does the net margin account for taxes?

1 A No, I believe taxes are taken after the company's
2 consolidated results are looked at, and then the tax is
3 calculated. I don't believe it has ever been calculated at
4 the facility level.

5 Q Is there a financial incentive to replace a GEO employee
6 with ten voluntary work program detainees?

7 A I don't believe there is any incentive. We have minimum
8 requirements for staffing to be in compliance with our
9 contract. GEO employees were able to manage, and they are
10 much more productive. I don't think we have ever, you know,
11 looked at an analysis, at least to my knowledge, that, you
12 know, what could we replace a GEO employee for in terms of
13 the work program.

14 Q If GEO added another staff member in the kitchen, would it
15 lose money?

16 A If GEO got that staff member incorporated into the
17 contract, no, it would not lose money because the margin
18 would be placed on top of their wages. If it was outside of
19 a contract mod, it would just become part of the operational
20 cost.

21 Q What is the margin GEO gets on the wages of an employee?

22 A GEO priced the Northwest contract with the expected ten
23 percent margin.

24 Q So break that down for me. I don't think I am fully
25 understanding. A ten percent margin goes on top of what?

1 A So during a pricing, we billed out all the expenses GEO
2 expects to incur on the contract to include our labor costs,
3 the operational costs. And so if during a pricing or
4 increase in staffing levels, that would increase our cost
5 base. And so when you add the ten percent margin, you are at
6 a higher cost basis so your margin would increase with
7 additional staff.

8 MS. SCHEFFEY: I would like to offer Exhibit 205,
9 which is stipulated, Your Honor.

10 MS. BRENNEKE: Objection, Your Honor. There is no
11 foundation. Not relevant.

12 MS. SCHEFFEY: Your Honor, it has been stipulated.
13 It is relevant because you told me if you wanted a certain
14 opinion in, that ICE would be the one to give it.

15 THE COURT: Well, the objection is well taken as to
16 foundation.

17 MS. BRENNEKE: It is also hearsay.

18 THE COURT: Yes, it appears to be.

19 MS. SCHEFFEY: Your Honor, it was stipulated.

20 BY MS. SCHEFFEY:

21 Q Mr. Hill --

22 THE COURT: Just a minute. You mentioned a
23 stipulation. I don't know, Ms. Brenneke, is this some sort
24 of an agreed exhibit?

25 MS. BRENNEKE: Your Honor, in the pretrial process,

1 there was a stipulation to admissibility. But this witness
2 has not laid a foundation and it is not relevant to the
3 matters at issue here, and it still constitutes hearsay.

4 THE COURT: Well, at this point, even if it is
5 stipulated, it is not sufficiently identified to justify
6 admission now.

7 MS. SCHEFFEY: Okay.

8 BY MS. SCHEFFEY:

9 Q Mr. Hill, can you have someone get you access to Exhibit
10 205, whoever is at that office with you?

11 A Yes. Do I step away?

12 Q I don't think there is anyone in the room with him. And
13 he is in Los Angeles. Is it okay if he just asks for help
14 outside the door?

15 THE COURT: Yes. It is time we took our morning
16 break. We will take ten minutes or so. You may be excused,
17 folks.

18 (Recessed.)

19 (The following occurred outside the presence of the jury.)

20 THE COURT: Tyler, we are ready for the jury.

21 (The following occurred in the presence of the jury.)

22 THE COURT: I think we are ready. You may continue,
23 Ms. Scheffey.

24 BY MS. SCHEFFEY:

25 Q Mr. Hill, I think you testified on direct that you review

1 the pricing for contracts; isn't that right?

2 A Yes, for the pricings for facilities in contracts in my
3 region.

4 Q Why do you include a voluntary work program in the
5 contract?

6 A It is required on ICE contracts due to the
7 Performance-Based National Standards, and it's just a
8 contract requirement at all ICE facilities.

9 Q Why on the financial side do you contemplate a dollar a
10 day payment?

11 A That's what has always been the accepted practice at our
12 ICE facilities. That's what Performance-Based National
13 Detentions Standards require. My understanding of the PBNDS
14 is that program is required and that detainees who
15 participate in that program are paid at a dollar per detail.

16 Q Do you also review the staffing plan?

17 A Yes, I do.

18 Q What do you review them for?

19 A When I review staffing plans, it is for operational
20 effectiveness, will there be enough employees to fulfill the
21 mission of the facility and in each department. I am also
22 looking for classification of employee based on the wage
23 determination schedules to make sure that the positions are
24 priced correctly with the correct wages and also looking at
25 just the overall staffing plan that includes everything that

1 we will need to operate a facility.

2 Q How do you know how many people you need to operate a
3 facility?

4 A Company knowledge and experience. I have worked on a lot
5 of contracts and overseen a lot of contracts and so it is,
6 you know, just looking at the size of the facility and the
7 expected operational needs of the facility to say, you know,
8 we have operated in a similar facility in a similar manner
9 with this number of employees.

10 Q Do you ever suggest that the staffing plan include more
11 employees?

12 A Yes, I have made recommendations to increase employees or
13 posts at different contracts at different times.

14 Q If that cuts into your profits, why do you do that?

15 A During a pricing exercise, you know, you are looking at
16 the opportunity to go to the client with what your expected
17 staffing plan is, so it is going to be incorporated into your
18 expenses and into your overall price. So that's the
19 opportunity to take a review of facility operations, if it is
20 a facility that's that been in operation, or a review of
21 other locations that are similar in nature to develop that
22 staffing plan and develop it during the pricing period so
23 that it is included in our proposal.

24 Q In creating a staffing plan, have you ever contemplated a
25 minimum number of detainees?

1 A Minimum number of detainees in the facility?

2 Q How about a minimum number of detainees in the voluntary
3 work program?

4 A With the stipulation in the contract that there is a
5 voluntary work program, I think we, in general, expect there
6 to be some participation, but there is never a guarantee of
7 the number of participants, and so I think when we price we
8 have to price to a point that should there be no
9 participation, while we might need to redeploy staff or
10 utilize overtime, we'll be able to carry out the mission of
11 the facility. So I don't believe, at least personally, I
12 have ever contemplated a minimum number of participants in
13 any work program.

14 MS. SCHEFFEY: Thank you. No further questions.

15 THE COURT: Ms. Brenneke.

16 MS. BRENNEKE: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. BRENNEKE:

19 Q Mr. Hill, when you indicated that -- earlier that the
20 contract could be revised with ICE, that would require
21 contract negotiations and agreement by ICE; is that correct?

22 A The existing contract can be modified through contract
23 modifications.

24 Q So, for example, if you added more GEO staff and you
25 wanted to get reimbursed for the cost of that staff, you

1 could go to ICE and ask for a contract modification; is that
2 right?

3 A GEO could ask for a contract modification. ICE would be
4 required to initiate the contract modification if they agreed
5 with our request.

6 Q But unless they agreed, the additional cost of the staff
7 would go against GEO's bottom line, correct?

8 A If GEO added staff and ICE had not agreed and incorporated
9 those staff into a contract modification to update the
10 staffing plan, then, yes, that expense would be incurred at
11 GEO's expense.

12 Q So really the existing contract and what GEO has agreed to
13 do in that contract is your baseline, and anything you pay in
14 addition to that is your burden unless you get ICE to agree
15 to change their contract, correct?

16 MS. SCHEFFEY: Objection, compound.

17 THE COURT: Overruled.

18 THE WITNESS: Can you repeat the question? I'm
19 sorry.

20 BY MS. BRENNEKE:

21 Q So you have an existing contract. GEO's agreed to all the
22 terms of that contract; isn't that right?

23 A Yes, so under the existing contract, the rate that ICE
24 pays GEO is an all-inclusive rate, and so anything that ICE
25 does not agree to modify, GEO, at its own discretion,

1 changes, would increase costs and would be an impact to GEO.

2 Q You testified that GEO always has paid detainee workers a
3 dollar a day; is that right?

4 A No, I think I mentioned the three times I am aware they
5 weren't paid a dollar a day.

6 Q Right. And so when GEO has paid more than a dollar a day,
7 ICE still reimbursed only a dollar a day, correct?

8 A I believe so, but I don't have direct knowledge.

9 Q We looked at the expanded spreadsheet which showed times
10 when all of the detainee wages were the cost of GEO because
11 they weren't reimbursed by ICE; is that right?

12 A Yes, we did that earlier.

13 Q Because GEO has agreed to a reimbursement rate of a dollar
14 a day; is that right?

15 A We have -- the contract states that it is -- ICE's CLIN
16 says it is an actual reimbursement of the cost of a dollar a
17 day.

18 Q That's because GEO generally pays a dollar a day, right?

19 A GEO generally pays a dollar a day because that's the
20 expectation of ICE.

21 Q Were GEO to follow the Washington minimum wage and pay
22 more than a dollar a day, GEO would still be reimbursed by
23 ICE at only a dollar a day, correct?

24 A Unless ICE agreed to modify the contract, that's my
25 understanding. ICE is going to only reimburse at a dollar a

1 day.

2 Q I would like to pull up two exhibits that we just talked
3 to. One is Exhibit 253. The other is Exhibit 269. I am
4 hoping you can pull those up side by side. I want to remind
5 you, Exhibit 253 -- can we blow those up if they are side by
6 side? I am asking for miracles by Zoom, so let's see. We
7 can do it one at a time, if that would make it easier. Let's
8 start with Exhibit 269. I just want to have you look at this
9 again, Mr. Kimble -- Mr. Hill, sorry. This is -- these are
10 the facts about GEO's employment of detainee workers
11 consistently every month for every year and what it was
12 reimbursed from ICE for that payment of wages; is that
13 correct?

14 A This is the reimbursement of the voluntary work program by
15 year and by month.

16 Q And we have established that GEO consistently employed
17 detainee workers as part of its operations during that
18 period; is that right?

19 MS. SCHEFFEY: Objection, form.

20 THE COURT: He may answer.

21 THE WITNESS: GEO utilized the detainee worker
22 program from the onset of the contract.

23 BY MS. BRENNEKE:

24 Q And utilized detainee work in its operation from the onset
25 of the contract to the present; is that right?

1 A We utilized and maintained the voluntary work program in
2 accordance with the contract since the contract's existence.
3 It is a requirement by ICE to have the program while we
4 operate under the contract with ICE.

5 Q Mr. Hill, it is true that you had detainees work each of
6 the days and each of the shifts listed on Exhibit 269; isn't
7 that true?

8 A We would have had participants in the voluntary work
9 program being paid for a detail during that time, which is
10 what each of those amounts represent.

11 Q Let's look at Exhibit 253 again, please. Can you blow
12 that up, 253?

13 Mr. Hill, you have also testified that throughout the
14 contract, the Northwest Detention Center has had handsome
15 profits; isn't that correct?

16 MS. SCHEFFEY: Objection, argumentative. Misstates
17 his testimony.

18 THE COURT: Reask that without using the word
19 "handsome."

20 BY MS. BRENNEKE:

21 Q Mr. Hill, you also testified that the Northwest Detention
22 Center is one of the highest profit-earning facilities in
23 GEO's facilities that it owns and operates; isn't that true?

24 A Yes, Northwest is one of the larger facilities and larger
25 contracts and has, you know, probably better than most in

1 terms of its margin.

2 Q For each of the years it has been in operation and
3 detainees worked, the overall operations have resulted in
4 substantial profits to GEO, correct?

5 A The facility has generated a positive net margin based on
6 the contract since its inception.

7 MS. BRENNEKE: No further questions from me.

8 THE COURT: Anything further of this witness?

9 MR. BERGER: Your Honor, I have a few follow-up
10 questions.

11 THE COURT: Mr. Berger, go ahead.

12 REDIRECT EXAMINATION

13 BY MR. BERGER:

14 Q Good morning, Mr. Hill. I am Adam Berger, one of the
15 attorneys representing the detainee workers in this case.
16 You were asked a few things by Ms. Scheffey on
17 cross-examination that I would like to follow up on. One,
18 you were asked whether paying the detainees minimum wage
19 would result in an increase in the bed rate or the cost of
20 the contract. Do you recall that?

21 A Yes, sir.

22 Q That is not necessarily the outcome, is it?

23 A I am not sure I understand your question.

24 Q Well, I think we just saw from 2015, the inception of the
25 contract through 2019, GEO made 18 to \$20 million in

1 operating margin at the Northwest Detention Center each year,
2 right?

3 A Gross margin, yes, sir.

4 Q Yeah, it made 60 to 90 percent better than the net margin
5 contemplated by the contract, correct?

6 A From the original pricing in general, I think we
7 established the net margin rate was 16 to 19 percent.

8 Q Rather than the ten percent that was actually contemplated
9 in the pricing of the contract, correct?

10 A Yes, the original pricing anticipated and expected a ten
11 percent return.

12 Q It is possible that even if GEO had to pay minimum wage to
13 the detainee workers, there wouldn't be an increase in the
14 bed rate or the price of the contract, it would just get
15 GEO's profit down to that ten percent contemplated in the
16 original pricing, right?

17 MS. SCHEFFEY: Objection, calls for speculation.

18 THE COURT: He may answer.

19 THE WITNESS: Well, if the client didn't incorporate
20 a change to the voluntary work program, and the voluntary
21 work program was still to be required and the detainees were
22 to be paid minimum wage, that would increase the expenses to
23 GEO, which at that point I don't know what the overall cost
24 of that change would be to speculate what that would do to
25 our current operating margin.

1 BY MR. BERGER:

2 Q Fair enough. I am not going to put you on the spot and
3 make you do more math now. There was one other thing I
4 wanted to ask about. You were asked about GEO's reinvestment
5 in personnel and facilities and community. Do you recall
6 that?

7 A Yes, sir.

8 Q Now, GEO's primary business is owning and managing private
9 prisons and detention facilities, correct?

10 A Secure services, that's what we do. We have our GEO care
11 side that has halfway houses, in-prison programs, reentry
12 services, electronic monitoring. We have other lines of
13 business.

14 Q But GEO is structured as something called a real estate
15 investment trust; is that correct?

16 A Yes, currently structured as a real estate investment
17 trust.

18 Q That is because there are tax advantages to being
19 structured as a real estate investment trust, correct?

20 A Yes, my understanding is there is tax advantages, but
21 there is also requirements to pay out dividends to
22 shareholders.

23 Q Okay. REIT is a real estate investment trust, right?

24 A Yes, that's the acronym I know.

25 Q Well, REIT gets to deduct the dividends they pay to

1 shareholders from their pretax income, right?

2 A I am not a tax expert or the company consolidated expert,
3 so I don't know how that structure works. I just know in
4 lieu of -- because certain tax breaks, a certain percentage
5 has to be paid out to shareholders.

6 Q Do you know whether that percentage of 90 percent of the
7 pretax earnings has to be paid out as dividends each year?

8 A I don't personally deal with the payouts or tax
9 consequences, so just from my personal knowledge, I know it
10 is a rather large percentage.

11 Q And that reduces GEO's taxable income, correct?

12 A Again, that type of calculation would take part. I am not
13 a regional and business and operation person. That would be
14 handled at our corporate office by our tax people.

15 Q Maybe one of the other witnesses we'll be hearing from can
16 speak to the tax advantages of being REIT.

17 I have nothing further. Thank you.

18 MS. SCHEFFEY: I have a few more on redirect.

19 RECROSS-EXAMINATION

20 BY MS. SCHEFFEY:

21 Q Mr. Hill, you were just asked about REIT. Do you know
22 what that phrase means, REIT?

23 A Real estate investment trust.

24 Q So to operate a real estate investment trust, does GEO
25 have to own property?

1 A I believe so, yes.

2 Q Is one of those properties that GEO owns the Northwest ICE
3 Processing Center?

4 A We have a controlling interest. I think it was financed
5 by bonds that are still outstanding. GEO controls the
6 property, from my understanding.

7 Q Bonds that are outstanding, what do you mean by that?

8 A To finance the project, GEO chose to sell bonds to
9 construct the facility and also again when the facility
10 expanded, and so it is a financing mechanism where we are
11 paying interest on the bond to bondholders and we have to pay
12 principal over time to pay off the bonds to the people who
13 bought them.

14 Q Does GEO owe a debt on its property?

15 A Yes. Northwest, to my knowledge, there is still bonds
16 outstanding. That is the facility use cost that was listed.

17 Q Do you know the cost of building the facility?

18 MS. BRENNEKE: Objection, this goes well beyond the
19 redirect.

20 THE COURT: Yes.

21 MS. SCHEFFEY: Your Honor, let me make my record.
22 There was discussion about the amount of profit --

23 THE COURT: Wait a minute. Wait a minute. Talk a
24 little slower now. What is it?

25 MS. SCHEFFEY: There was significant discussion about

1 the amount of profit isolated from any outstanding debts that
2 were completely ignored. I am just bringing up the second
3 half of the picture.

4 THE COURT: The objection to the question you asked
5 is sustained.

6 BY MS. SCHEFFEY:

7 Q What was the cost of building the facility?

8 A I don't know the historical cost or cost of expansion. I
9 am not the person to be able to speak to that. I'm sorry.

10 Q You talked a little bit about net margin and gross margin.
11 Do you remember that?

12 A Yes.

13 Q What is the difference between gross margin and net
14 margin?

15 A So gross margin, in the way we calculate it, generally
16 reflects the costs associated with the facility that are
17 really in the ability of management to manage, with some
18 exceptions, depreciation cost and, you know, a few other
19 things which are relatively fixed. Net margin is after
20 applying indirect costs and the facility use costs, in this
21 case the bond payments, which we would then say this is the
22 net margin for this particular facility.

23 Q So does the gross margin have all expenses taken out of
24 it?

25 A It has the facility level expenses, but not corporate and

1 overhead expenses taken out of it.

2 Q When you are looking at profits, do you typically look at
3 gross or net margin?

4 A I think as a company, we look at profit after all the
5 divisions and everything has been consolidated because it's
6 at that point where, you know, other expenses that aren't
7 included in FAR come out and you also have whatever taxes are
8 owed because we do have the REIT structure, but we have an
9 operating company, so there are still corporate taxes that
10 come out. So profit is only really viewed at the corporate
11 level. Whereas when we're looking at facility performance,
12 we generally look at the gross margin because we don't look
13 at net margin on a monthly basis and allocate costs out on a
14 monthly basis.

15 THE COURT: Try and just answer the question,
16 Mr. Hill. Don't explain your answer unless explanation is
17 asked for.

18 What is the next question, Ms. Scheffey?

19 BY MR. SCHEFFEY:

20 Q A few minutes ago, you testified that the Northwest ICE
21 Processing Center has a higher profit margin than other
22 facilities across the country; is that correct?

23 A Yes, it is one of the larger contracts and better
24 performing facilities.

25 Q Are any of those other contracts you are comparing it to

1 ICE contracts?

2 A Several of them are ICE contracts.

3 Q Do those ICE contracts have a voluntary work program?

4 MS. BRENNEKE: Objection to the form. Foundation.

5 THE COURT: You are beyond the relevant
6 recross-examination, counsel.

7 MS. SCHEFFEY: Your Honor, I don't believe I am
8 because the implication is this one is more profitable
9 because they are not different and they are using detainee
10 labor, and that's what I am trying to get to.

11 THE COURT: You can call the witness as your own
12 witness if you want to get into that.

13 BY MS. SCHEFFEY:

14 Q Is the driving profit -- is the line item that drives
15 profit at this facility the voluntary work program?

16 A No.

17 MS. SCHEFFEY: Thank you. No further questions.

18 MS. BRENNEKE: Your Honor, I have just a couple.

19 FURTHER REDIRECT EXAMINATION

20 BY MS. BRENNEKE:

21 Q Mr. Hill, GEO and GEO's subsidiaries own the Northwest
22 Detention Center; is that correct?

23 A We treat it as an owned facility, although I know there is
24 still bonds outstanding. It is kind of like having a
25 mortgage. An individual owns the house, but the bank

1 technically owns the house until the mortgage is paid off.

2 Q Obviously, there is finances. We can understand that.

3 GEO and GEO subsidiaries own the Northwest Detention Center,
4 correct?

5 A I believe so. I don't know the details or the
6 implications of the ownership structure. In internal
7 documents, we view it as an owned facility.

8 Q All financing costs that GEO pays are investments in GEO's
9 own property; isn't that true?

10 A Specific to the Northwest. If we are investing into that
11 property, it is being invested into a GEO-owned facility.

12 MS. BRENNEKE: Thank you. No further questions.

13 MR. BERGER: One more question, Your Honor. Not to
14 beat a dead horse.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. BERGER:

17 Q The facility use cost, the finance costs are considered in
18 the net margin for the Northwest Detention Center, correct?

19 A Yes.

20 MR. BERGER: Thank you.

21 THE COURT: Thank you, Mr. Hill. You may be excused.
22 You may call your next witness.

23 MS. BRENNEKE: The State calls Brian Evans.

24 THE COURT: Has the witness signed in?

25 THE CLERK: The witness has not signed in -- here he

1 is.

2 THE COURT: Mr. Evans, if you will raise your right
3 hand and be sworn.

4 BRIAN EVANS,
5 having been sworn under oath, testified as follows:

6 THE COURT: Thank you. You may inquire.

7 DIRECT EXAMINATION

8 BY MS. BRENNEKE:

9 Q Good morning, Mr. Evans. I am Andrea Brenneke, and I
10 represent the State of Washington. We met before when I took
11 your deposition, do you recall that?

12 A Yes.

13 Q That was in June 2020 and we did it by Zoom. Do you
14 remember that?

15 A I do.

16 Q At that time, you agreed to answer my questions honestly
17 and under oath; is that right?

18 A I did.

19 Q Will you state your name for the record?

20 A Brian Evans.

21 Q Who is your employer?

22 A The GEO Group.

23 Q What is your title?

24 A Senior vice president, chief financial officer.

25 Q When did you start working for the GEO Group or any of its

1 predecessor corporations?

2 A October 2000.

3 Q You worked -- when did you become GEO's CFO?

4 A August 2009.

5 Q As chief financial officer for GEO, you have duties and
6 responsibilities to oversee all of GEO's corporate finance
7 and accounting tax functions and capital market activities;
8 is that correct?

9 A Yes.

10 Q As CFO, are you the highest ranking financial officer for
11 the company?

12 A Yes.

13 Q You are based in Florida; is that correct?

14 A Yes.

15 Q That's the headquarters for The GEO Group?

16 A Yes.

17 Q Now, GEO is a for-profit, publicly-traded corporation on
18 the New York Stock Exchange; is that correct?

19 A Yes.

20 Q It has a ticker "GEO"?

21 A G-E-O.

22 Q And in approximately 2005, GEO came to acquire and own the
23 Northwest Detention Center; is that true?

24 A Yes.

25 Q When GEO bought the Northwest Detention Center, GEO

1 maintained the corporate structure and financing of the
2 Northwest Detention Center; is that right?

3 A Yes.

4 Q The Northwest Detention Center is a wholly-owned
5 subsidiary of GEO; is that right?

6 A It is owned through a wholly-owned subsidiary, yes.

7 Q So GEO both owns the property and the facility and
8 operates that; is that correct?

9 A Correct.

10 Q After acquisition, GEO expanded the Northwest Detention
11 Center twice; is that true?

12 A I believe so, yes.

13 Q The first time simply increased the number of people that
14 could be housed within the same footprint from 500 to 1,000
15 people; is that right?

16 A Yes.

17 Q In the second expansion, GEO actually expanded the
18 footprint and the physical facility to increase the capacity
19 to 1,575 people; is that right?

20 A Yes.

21 Q GEO's capacity and the number of people it can house there
22 re -- has remained constant at 1,575; is that right?

23 A Correct, since the expansion.

24 Q That expansion was in what, 2011 or so?

25 A I think that sounds about right.

1 Q In your role as CFO, you were also involved in GEO's
2 business development work and bidding for federal government
3 contracts; is that true?

4 A Yes.

5 Q And so at a high level, there is a federal bid process to
6 provide detention management services at a facility like the
7 Northwest Detention Center; is that correct?

8 A There is a process, yes.

9 Q As part of the bid process, the federal agency, in this
10 case ICE, sets forth an RFP or request for proposal; is that
11 true?

12 A They put -- typically, they put out an RFI, request for
13 information, first, followed by a request for proposal with
14 all the specifications that the parties are going to bid on.

15 Q The specifications are the parameters of a particular
16 contract opportunity that they want bids and proposals for;
17 is that right?

18 A That's correct. They want the obligations that the
19 contractor has to meet.

20 Q GEO, as a private corporation that wants to do business
21 with the federal government, puts together a bid proposal and
22 provides the proposed staffing and pricing to show how that
23 would be done as a business operation; is that right?

24 A Yes.

25 Q And then if GEO submits a proposal and bid that meets the

1 agency's qualifications, and if GEO chooses to contract with
2 GEO, the parties sign a binding contract; is that right?

3 A If the government chooses to -- if the government selects
4 us, we sign a contract, that's correct.

5 Q And there is an agreement that GEO agrees to meet the
6 obligations under the contract the way they said they would
7 in the contract; is that right?

8 A That's correct.

9 Q As CFO, your role in the federal contract bidding is the
10 financial piece; is that true?

11 A For the most part, yes.

12 Q So you help to develop and review the financing structure
13 on the contract and the price that you'll submit to the
14 client, ICE, as the cost of the services?

15 A That is correct.

16 Q And ICE's costs are GEO's revenues; is that true?

17 A Generally speaking, yes.

18 Q You were involved in developing the pricing model as part
19 of GEO's contract bidding for the Northwest Detention Center
20 2009 contract with ICE; is that true?

21 A Yes.

22 Q You were also involved in developing the pricing model and
23 reviewing the financing as part of GEO's contract bidding for
24 the 2015 contract with ICE; is that right?

25 A Yes.

1 Q The subsidiaries that control the operations of the
2 Northwest Detention Center and that own the property of the
3 Northwest Detention Center are within the secure services
4 division of GEO; is that right?

5 A Yes.

6 Q In terms of the overall business volume of GEO, the secure
7 services division accounts for about two-thirds, 65 to 70
8 percent, of all of GEO's revenue; is that true?

9 A About 65 percent.

10 Q In 2019, GEO owned and operated about 70 separate
11 facilities in the United States; is that right?

12 MS. SCHEFFEY: Objection to relevance.

13 THE WITNESS: Sounds approximately correct.

14 THE COURT: The answer may stand.

15 BY MS. BRENNEKE:

16 Q Of those, GEO had 14 to 17 immigration detention
17 facilities like the Northwest Detention Center; is that true?

18 A Yes.

19 Q For all of those immigration detention facilities, GEO had
20 contracts with the federal government, the federal
21 government, ICE, Immigration Control and Enforcement Agency?

22 A For -- probably for most of them. Not all of them. Some
23 of them will be what are referred to as intergovernmental
24 services agreements. So the federal government will contract
25 with a local government and the local government will

1 subcontract with us to provide the service. Ultimately, the
2 service is being provided by us to the federal government.

3 Q Now, as CFO at the corporate level, do you approve the
4 annual budget of the Northwest Detention Center facility?

5 A Yes, I review the budget and ultimately approve it.

6 Q You also monitor the Northwest Detention Center's facility
7 revenue and profit performance as compared to budget
8 projections; is that right?

9 A We monitor the facility's revenue and pretax operating
10 margin.

11 Q You do that through a PowerPoint presentation; is that
12 right?

13 A On a monthly basis when we are looking at actual results,
14 we have standard reports that we issue. I guess they could
15 be viewed as a PowerPoint. They're not typically PowerPoint,
16 but they are standard reports that we have.

17 Q So when you set up the budget, it's a PowerPoint, but
18 every month you are reviewing revenues, expenses, gross
19 profits on more standard reports; is that right?

20 A That's correct. The PowerPoint is really just used by
21 probably the regional management to present what the budget
22 is going to be. The budget is still prepared in a system
23 similar to what the actual monthly results are recorded in.
24 The PowerPoint is just really a way for management to
25 communicate between two different hierarchies, if you will.

1 Q But as a result of the work you do, you are familiar with
2 the revenues, the profits and the pricing at the Northwest
3 Detention Center; is that right?

4 A Yes.

5 Q You understand that this case is about people who are
6 detained and that work in the voluntary work program at the
7 Northwest Detention Center facility; is that right?

8 A Yes.

9 Q But there is absolutely no consideration of detainee
10 workers or their pay in the Northwest Detention Center
11 facility budget or the review of Northwest Detention Center's
12 budgets or actuals, is there?

13 A No.

14 Q GEO pays the people who are detained at the Northwest
15 Detention Center and work there as part of the voluntary work
16 program a dollar a day; is that correct?

17 A Yes, I believe that is correct.

18 Q GEO is then reimbursed by the government for those dollar
19 a day wage payments; is that right?

20 A That is correct. We don't technically pay anyone cash of
21 a dollar. They have counts, if you will. We will record to
22 their account that they earned that dollar and that get -- it
23 gets credited to them. And then ultimately the government
24 reimburses us for that because the employee will spend that
25 money.

1 Q The reimbursement happens sometimes later, like on a
2 monthly basis; is that right?

3 A The government is usually a couple months behind on the
4 payments.

5 Q GEO has never paid detainee workers at the Northwest
6 Detention Center for their labor at the Washington minimum
7 wage rate; is that true?

8 A That's true.

9 Q In 2017, Washington filed this lawsuit putting GEO on
10 notice that Washington's minimum wage should be paid for all
11 work GEO asks to be done inside the facility, including
12 detainee workers; isn't that right?

13 A I don't know. I don't know if there was a notice. I am
14 aware of the lawsuit that was brought. I am not aware of any
15 notice that was provided.

16 Q You are aware that the lawsuit is about the detainee work
17 at the Northwest Detention Center, correct?

18 A Yes.

19 Q You are aware that Washington seeks to have the minimum
20 wage paid to detainee workers moving forward; is that right?

21 A That's the purpose of the lawsuit, yes.

22 Q You knew that in 2017, didn't you?

23 A Approximately, I guess, whenever the lawsuit was brought.

24 Q After this lawsuit was brought, GEO chose to maintain its
25 dollar a day payment scale; isn't that correct?

1 A Yes.

2 Q You and your team did calculate what it would cost to
3 comply with the minimum wage laws at the Northwest Detention
4 Center and other GEO ICE facilities, didn't you?

5 A I don't know.

6 Q Well, why don't you take a look at Exhibit 365-A, please.

7 A 365-A, you said?

8 Q Yes.

9 THE COURT: You don't mean A-365?

10 MS. BRENNEKE: No. It is labeled A because there are
11 redactions the parties agreed to and we want to make sure we
12 include the proper form.

13 THE WITNESS: I think I have it. I have 365-A pulled
14 up.

15 BY MS. BRENNEKE:

16 Q Is that a letter that GEO's CEO and chair of the board,
17 George Zoley, sent to ICE on May 30th, 2018?

18 A It is from George Zoley to ICE, yes.

19 Q You were involved in helping to prepare financial
20 calculations that became part of that letter; is that
21 correct?

22 A No, I don't think so. I may have looked -- I remember
23 seeing this letter. I am aware of the numbers in there. I
24 don't think I prepared the numbers, if that's what you are
25 saying.

1 Q You reviewed the numbers that were included in the letter
2 that the CEO and chair of the board sent to ICE?

3 A I reviewed the amounts. Not in the way I would review a
4 pricing per se where I look at detail and how it is
5 calculated and so forth. I am aware of these amounts, not
6 these amounts per se, but I am aware of the letter and the
7 amounts in there.

8 MS. BRENNEKE: Your Honor, we offer this letter for
9 admission.

10 MS. SCHEFFEY: I object to the relevance of this
11 letter.

12 MS. BRENNEKE: For the record, it is 365-A.
13 Your Honor, would you like me to express the relevance?

14 THE COURT: I would like you to be quiet for a second
15 so I can read it. I think it may be admitted. 365-A is in
16 evidence.

17 BY MS. BRENNEKE:

18 Q Why don't we pull that up.

19 MS. MELL: We have an unredacted version in front of
20 the jury.

21 MS. BRENNEKE: Ms. Mell, what you will notice, I was
22 going to point this out. If you look, you will see, it is
23 whited out. It doesn't show exactly where it is redacted.
24 You can see segments where it is whited out. The white outs
25 are exactly what GEO and the parties had agreed to white out

1 and then submit to the Court.

2 MS. SCHEFFEY: We would object to this not being
3 clearly marked where the redactions are, so it looks like
4 sentences.

5 THE COURT: Wait a minute. Wait a minute. We have
6 too many lawyers for one party talking about this. Whose
7 witness is this?

8 MS. SCHEFFEY: It is mine, Your Honor. We object to
9 the fact it is not clear where the redactions are. The
10 parties did agree on the redactions. Here, they used white
11 out as opposed to clear marking of redactions, and it is very
12 unclear.

13 THE COURT: The exhibit may be admitted and that can
14 be explained.

15 BY MS. BRENNEKE:

16 Q So let's go back to this letter. First off, this was a
17 letter sent by George Zoley, chairman and CEO of the GEO
18 Group; is that correct?

19 A Yes.

20 Q The letterhead is GEO's letterhead from your former
21 offices in Boca Raton, Florida; is that right?

22 A Yes.

23 Q This letter was sent to Peter Edge, who is the acting
24 deputy director of ICE, Immigrations and Custom Enforcement
25 Agency; is that true?

1 A Yes.

2 Q In this letter, Mr. Zoley was discussing detainee minimum
3 wage lawsuits brought by the State of Washington as well as
4 detainees in Colorado, Washington and California; is that
5 correct?

6 A Yes.

7 Q The line above the box in the middle, GEO states that it
8 conducted an estimation of the costs necessary to achieve
9 compliance with the plaintiffs' demands to comply with the
10 minimum wage laws; is that correct?

11 MS. SCHEFFEY: Objection, misstates the document.

12 THE WITNESS: I see it says "an estimation of costs
13 necessary with the plaintiffs" --

14 THE COURT: Just a minute, Mr. Evans. When there is
15 an objection, you need to wait for a ruling on it.

16 You should rephrase your question, counsel. You added
17 words to the quote.

18 BY MS. BRENNEKE:

19 Q In the first paragraph, the letter is about lawsuits
20 claiming a violation of state minimum wage filed by the
21 Plaintiff State of Washington and others; is that correct?

22 A Could you restate the question one more time?

23 Q I am drawing your attention -- we will go in steps here.
24 That first paragraph, the letter relates to lawsuits filed by
25 the State of Washington and detainees in Colorado, Washington

1 and California; is that right?

2 A The way I read the first paragraph, it's referring to a
3 request for equitable adjustment that the company previously
4 filed related to legal costs that we incurred defending the
5 voluntary work program in those states.

6 Q Right. Okay. Thank you for the clarification.

7 In addition, there is clarification that the lawsuits
8 were filed based upon the allegations or the claims, legal
9 claims that GEO was violating state minimum wages in those
10 states; is that right?

11 A No, it says the ICE policy is alleged to be in violation.

12 Q And it was GEO who was sued by the state of Washington; is
13 that right?

14 A That is true.

15 Q It was GEO that was sued in the state of Colorado; is that
16 right?

17 A That is correct.

18 Q And it was GEO that was sued in the state of California;
19 is that true?

20 A That is correct.

21 Q In all of those suits, the plaintiff sued GEO for
22 violating the wage laws; is that correct?

23 A I believe that is correct.

24 Q Okay. And then the highlighted paragraph right above the
25 box says "we," which is GEO, is that correct, "we"?

1 A Let me get to that line. Okay.

2 Q "We have conducted an estimation of the costs necessary to
3 achieve compliance with the plaintiffs." Do you see that
4 line?

5 A Yes.

6 Q And that is GEO who conducted an estimation of the costs
7 that would be necessary to achieve compliance with the state
8 minimum wage laws in those different states; is that correct?

9 A That's correct.

10 Q You and your team were involved in the financial
11 calculations that were provided to ICE in that letter,
12 weren't you?

13 A My team, no. I don't think so. Like I said, I reviewed
14 it. I would imagine the numbers were gathered together from
15 the facilities. I am not sure how they were accumulated.
16 They came up with some round numbers here, it looks like.
17 Then they just extrapolated it based on our number of beds to
18 the total number of beds, 11,000 to 33,000, so three times,
19 they took whatever number we came up with and extrapolated it
20 to the rest of the populations. It is a little bit of a wild
21 ass guess.

22 Q This was a wild ass guess that GEO sent to its client,
23 ICE; is that right?

24 A That is correct.

25 Q Let's break down what is in the box. The first

1 calculation in the box is the calculation of the annual cost
2 of paying minimum wage to detainee workers at all of GEO's 12
3 ICE facilities; is that right?

4 A That's what it says, yes.

5 Q The total amount of that cost was \$22 million; is that
6 right?

7 A That's what it says, yes.

8 Q \$22 million a year?

9 A Yes.

10 Q And then the second calculation inside the box was GEO's
11 calculation of the annual cost of replacing detainee workers
12 with full-time employees hired from the community at GEO's 12
13 ICE facilities; is that right?

14 A That is correct. That's what it says, yes.

15 Q The cost of replacing detainee workers with staff from the
16 community was \$38 million; is that right?

17 A That's correct.

18 Q Your team -- or GEO approached the analysis of what it
19 would cost, I think you said, by gathering data from the
20 facilities of their staffing; is that correct?

21 A Honestly, I don't know how it was done. I don't think it
22 was done in an organized fashion, per se. I think if I was
23 in charge of it, I would have done it probably differently.
24 My guess is facilities submitted some sort of estimate and
25 those were all compiled together. I am not sure there was a

1 significant, diligent review performed like we would if we
2 were actually doing a pricing analysis and going to bid it to
3 the government. The purpose was really just to give an
4 approximation to the government of what the annual cost
5 impact could be to them if ultimately there was to be some
6 new precedent established through these lawsuits.

7 Q And the information that you reviewed and provided was
8 sufficiently correct that you felt comfortable passing it on
9 to ICE; isn't that right?

10 MS. SCHEFFEY: Objection, misstates the testimony.

11 THE WITNESS: Yeah, this is --

12 THE COURT: Just a minute.

13 THE WITNESS: I'm sorry.

14 THE COURT: Just a minute. The objection is
15 sustained.

16 BY MS. BRENNEKE:

17 Q So let me take a step back, Mr. Evans. You said the way
18 you would do it, if you were to undertake this analysis,
19 would be I think somewhat related to how you do pricing in a
20 normal facility; is that right?

21 MS. SCHEFFEY: Objection, misstates testimony.

22 THE COURT: Overruled. You may answer.

23 THE WITNESS: If I was trying to calculate the actual
24 cost, then we would do, you know -- if the government didn't
25 have the voluntary work program and was to require some of

1 these tasks to be completed by a regular labor force, then we
2 would evaluate that consistent with how we evaluate the rest
3 of our pricings and calculate accordingly.

4 BY MS. BRENNEKE:

5 Q How would you do that?

6 A Probably start at the facility level so they would have to
7 do an analysis of the amount of effort that would be required
8 and the number of people it would take to do it. The
9 voluntary work program isn't really designed to operate as an
10 efficient workforce, if you will. It would -- I think it
11 would take a lot of effort to figure out what that would be.

12 Q So you would undertake the analysis at the facility level
13 of what it would take to replace detainee workers with
14 full-time employees; is that right?

15 A Yeah, if it would be necessary. I think some of the work
16 is, you know, I don't want to say busy work, but to give
17 people more to do. I am not sure it would necessarily -- all
18 that work would necessarily be replaced or all the things
19 they are doing would necessarily be replaced. That's why I
20 think the analysis would be a little bit more complicated and
21 take some time and effort to figure that out.

22 Q So you would look at the different job functions that
23 needed to be completed at the facility that the detainee
24 workers were doing; is that right?

25 A We would look at the tasks that needed to be completed.

1 There is no specific job functions or descriptions currently
2 that I am aware of, but maybe there is.

3 Q You look at the tasks and functions that the detainee
4 workers are doing and then you would determine how many
5 full-time employees would be needed from the community to do
6 that work; is that right?

7 A No, I would phrase it differently. I would look at what
8 tasks actually need to be accomplished. I don't think we
9 would use the -- we would not use the workforce, the
10 voluntary work program as a basis to determine what we would
11 need to do to functionally complete the work. I think we
12 would just ignore them and figure out what we would need to
13 do if it wasn't a program that was required under the
14 contract. If we had to deliver that service using our
15 workforce, then we would just look at it completely
16 standalone, what tasks need to be accomplished and how we
17 would do that.

18 Q So you would do that by looking at what tasks needed to be
19 accomplished, how much your existing staff is, how many
20 additional staff you would need to add in order to accomplish
21 those tasks; is that right?

22 A Something along those lines.

23 Q The additional staff that you would need to have to
24 accomplish those tasks would be paid consistent with the job
25 descriptions in the Department of Labor wage determination

1 analysis. You would figure out how much it would cost to do
2 that from staff from the community?

3 A Yes, the Department of Labor establishes the wages for
4 hourly employees in our facilities. There's different job
5 codes and descriptions. We are required by law to pay in
6 accordance with that.

7 Q So before we move from this exhibit, I want to be really
8 clear that the financial information GEO provided to ICE in
9 the letter of May 30th, 2018 about paying, or the cost of
10 paying minimum wage to detainee workers, or the cost of
11 paying prevailing wages for the work currently done by
12 detainees, if you had to hire staff from the outside to do it
13 instead, was for informational purposes only; isn't that
14 right?

15 MS. SCHEFFEY: Objection, compound and vague.

16 THE COURT: You may answer.

17 THE WITNESS: Can you say it again?

18 BY MS. BRENNEKE:

19 Q The financial information you provided was for
20 informational purposes for ICE; isn't that true?

21 A I think it was for illustrative purposes to give them a
22 sense of what they could possibly incur if, as I said before,
23 if these programs, these voluntary programs were to go away.
24 The government is going to end up paying that cost if that
25 were to be the case.

1 Q Well, the government would pay that cost only if it agreed
2 to pay that cost, correct?

3 A Well, they would agree to pay it.

4 Q You are pretty confident of that?

5 A Certain of it.

6 Q But under the existing contracts with ICE, GEO would have
7 to essentially eat those costs until such time as GEO paid
8 it, correct? Until such time as ICE were to agree to pay
9 additional?

10 A We have to go through an equitable adjustment process
11 which is similar to what this letter was about.

12 Q The equitable adjustment process would be one to say, hey,
13 ICE, we have decided, or we now need to pay minimum wage to
14 our detainee workers in Washington State, and we would like
15 to pass that cost on to you. That's what an equitable
16 adjustment would be; is that right?

17 A Yeah. I really don't know how it would work out.
18 Ultimately, the government has to adhere to the law, too. If
19 the courts change the ruling, I think the government is
20 subject to that. I am not sure there needs to be an
21 equitable adjustment process. That's where the contractual
22 issues would be worked out and figured out, and I don't know
23 about that.

24 Q What I am thinking is that what you are talking about
25 right now is an idea of what GEO would do and what GEO would

1 ask ICE to do if and when GEO started paying the minimum
2 wage; is that right?

3 MS. SCHEFFEY: Objection, argumentative.

4 THE COURT: Overruled.

5 THE WITNESS: I am saying, I believe that the
6 government is subject to the rulings of the court, that
7 that's part of the law, right? I am not a lawyer. I think
8 courts can set precedent and change the law. If it changes
9 the law, then the government has to comply with that.

10 BY MS. BRENNEKE:

11 Q And if the jury were to decide that the Minimum Wage Act
12 applies in this case, GEO would have to comply with that,
13 correct?

14 A At some point. I mean, you know, again, there is a long
15 process. I am sure that we would appeal that. But
16 ultimately if the State were to prevail, of course we are
17 going to comply with the law.

18 Q It is not clear right now how that would work in terms of
19 your contracting with ICE. But you know GEO would comply
20 with the law, correct?

21 MS. SCHEFFEY: Objection, misstates testimony.

22 THE COURT: Overruled.

23 THE WITNESS: Say that again.

24 BY MS. BRENNEKE:

25 Q You are not sure how ICE would respond to a request to

1 change its contract, but you know that GEO would comply with
2 the law, correct?

3 A Ultimately, if the courts side with the State, then, of
4 course we would. That's what we have to do. I don't think
5 we would ever pay detainees minimum wage.

6 Q Unless you were required to do so, correct?

7 A No, I don't think we would ever pay detainees minimum
8 wage. We would hire outside workers. I think it would be
9 destabilizing to the safety and security of the facility to
10 pay detainees minimum wage and would defeat the purpose of
11 the voluntary work program.

12 Q So paying a detainee worker more would change anything in
13 the structure of the facility's operations?

14 A I think it would, yeah. You would introduce a level of
15 people who have a bunch of money who are working and those
16 who don't, and you are going to create opportunities for
17 abuse within that system, protection rackets, people are
18 going to control who necessarily gets to volunteer for those
19 jobs and how much they get from that. It would be
20 disastrous. I am not aware of any place in the world where
21 voluntary work programs pay minimum wage or high wages. I
22 think it is for that reason.

23 The program exists to try to reduce idleness, boredom,
24 ensure people have an opportunity to be active if they want
25 to. So to promote the safety and security of the facility, I

1 think if you start paying the detainees or the inmates a
2 significant amount of money, they are not all going to make
3 that and that is going to create a significant disparity
4 within the facility, and that is going to create issues. We
5 operate facilities in the United Kingdom, Australia, South
6 Africa, we use these programs there, across the country, just
7 like our government counterparts do and are required to in
8 all of those locations.

9 Q Thank you for sharing your perspective on that.

10 I am going to go back to Exhibit 365-A. In this
11 letter, you urgently implored the Department of Justice to
12 take over the defense of these lawsuits and reimburse GEO for
13 its cost and attorney fees in defending its dollar-a-day
14 program, correct?

15 A Yes.

16 Q That request was denied; is that right?

17 A Ultimately, yes.

18 Q Now, you are aware there is no legal prohibition against
19 GEO paying more than a dollar a day to its detainee workers
20 that work in the voluntary work program, is there?

21 A I know there is a legal requirement to pay what we are
22 required to pay. I don't know if that could be interpreted
23 as, don't pay more, pay this.

24 Q You are not aware of a legal prohibition against paying
25 the minimum wage?

1 MS. SCHEFFEY: Calls for a legal conclusion,
2 Your Honor.

3 THE COURT: You may answer.

4 THE WITNESS: I am not aware of any.

5 BY MS. BRENNEKE:

6 Q Some time after your deposition was taken, Mr. Evans, GEO
7 provided counsel with the native format Excel spreadsheet
8 that is the underlying calculations that went into the letter
9 in 365-A. We have printed out --

10 MS. SCHEFFEY: Objection, Your Honor. Counsel is
11 testifying about the contents of the document he hasn't seen.
12 She's trying to lay the foundation through her testimony.
13 She can show it to him and ask him.

14 THE COURT: I think that is a fair objection.

15 BY MS. BRENNEKE:

16 Q Mr. Evans, I would like you to take a look, please, at
17 Exhibit 602-A.

18 A 602-A?

19 Q Is that one of the calculations entitled "annual impact of
20 paying detainees minimum wage" that is broken down by region
21 and facility?

22 MS. SCHEFFEY: Again, object to foundation. She
23 hasn't asked the witness if he has ever seen it before or
24 what it is.

25 THE WITNESS: Most of it is blacked out. It has

1 those captions on the left. Is that what you are saying?

2 BY MS. BRENNEKE:

3 Q We have blacked out -- the agreement of the parties, GEO
4 and the plaintiffs, was to black out all of the numbers
5 related to facilities other than the Northwest Detention
6 Center and the final number. That's why it is blacked out.

7 MS. SCHEFFEY: I would like to lodge my objection
8 that I think got spoken over. It has not been asked if this
9 witness has seen it before and he is being asked to testify
10 about it without laying the foundation he has knowledge about
11 it, which is resulting --

12 THE COURT: The exhibit has not yet been offered. I
13 think the objection is premature.

14 MS. SCHEFFEY: I understand. I am just objecting to
15 the document being read in before it is offered -- captions
16 and titles.

17 THE COURT: That is a fair objection.

18 MS. SCHEFFEY: Thank you.

19 BY MS. BRENNEKE:

20 Q So, Mr. Evans, is this the analysis underlying the figures
21 that are in Exhibit 365 that has been admitted as to the
22 total amount that it would cost to pay minimum wage to
23 detainees per year for their work?

24 A I don't know.

25 Q I would like you to compare the bottom line number total

1 for 12 ICE facilities with the number that is in the box on
2 365-A.

3 A Okay.

4 Q That number matches, doesn't it?

5 MS. SCHEFFEY: Objection, we are reading what the
6 document is into the record. She asked --

7 THE COURT: He may answer this question.

8 THE WITNESS: It is close, yes.

9 BY MS. BRENNEKE:

10 Q So does that refresh your recollection that this was the
11 analysis done by GEO that was the basis for the summary in
12 the letter GEO sent to ICE?

13 MS. SCHEFFEY: Again, refreshing recollection implies
14 that the witness has seen it before.

15 THE COURT: Overruled. You may answer.

16 THE WITNESS: I really don't remember if I saw this.
17 I know I saw the letter, as I said before.

18 BY MS. BRENNEKE:

19 Q Well, you know, Mr. Evans, that the finance people within
20 GEO conducted an analysis that went into the letter of 365;
21 is that correct?

22 A I don't know who did it, honestly. It could have been
23 legal. It might have been people from the facilities up
24 through the regions. When you say "finance," it wasn't my
25 finance or accounting department that prepared it. I know

1 that for sure.

2 Q Did your office review the document that is 602-A to
3 ensure that the information you were providing to ICE had a
4 grounds in fact?

5 A I don't recall. I mean, I may have seen this. I just
6 don't remember. I will add to that. No one -- the only
7 person that would have seen it in my group would have been
8 me, if anyone saw it.

9 Q Would you agree that before GEO submits information to its
10 client, that there is a due diligence process and that you
11 have some obligation to ensure the information is true and
12 correct?

13 A Yes, generally. Depends on the purpose, as I stated
14 earlier. I think that is reasonable.

15 Q So even though you don't have a specific memory right now,
16 you would have been the person who reviewed these underlying
17 calculations that were then submitted to ICE; is that right?

18 A No. If I did anything, I saw this, I didn't look at any
19 detail or anything on this. I know that for sure that I
20 never looked at any underlying calculations or detail, as I
21 said. I know I saw the letter. I might have seen the
22 summary page. I definitely did not ever look at any of the
23 detailed calculations that were used to prepare this.

24 Q You mean you didn't look at them in detail?

25 A I didn't look at them.

1 Q You trusted that those who worked at the facility and the
2 regional level had undertaken the analysis in a way that was
3 reliable, that you could pass it on to ICE?

4 A For the purposes of illustrating to the government the
5 potential cost ramifications, yeah.

6 Q So I think what I am hearing you say, if I can read
7 between the lines, you don't necessarily ascribe to the truth
8 of what is here. Like, you don't believe this may in fact be
9 the number; is that right?

10 A Right.

11 Q But it is the number that was generated and the
12 calculation that was generated that gave rise to the letter
13 of 365; is that true?

14 A Yes. Yes.

15 Q These are business records that were normally kept in the
16 course of GEO's business; isn't that right?

17 A Yes. I would say this is like a worst case, probably,
18 analysis.

19 Q Worst case analysis. Okay. All right. So why don't we
20 move --

21 MS. BRENNEKE: Offer 602-A.

22 MS. SCHEFFEY: Object to the foundation. The witness
23 has testified he doesn't remember it and hasn't seen it
24 before.

25 THE COURT: This is identified as a business record

1 of GEO, I take it. I think it may be admitted on that basis.

2 (Exhibit 602-A was admitted.)

3 BY MS. BRENNEKE:

4 Q Why don't we publish this for the jury.

5 Now, this GEO business record is entitled "annual
6 impact of paying detainees minimum wage." You see that?

7 A Yes.

8 Q It is broken down by western region, central region and
9 eastern region; is that true?

10 A Yes.

11 Q Within the western region, the numbers that are visible
12 are under the column or the -- "Tacoma;" is that right?

13 A Yes.

14 Q And there it shows a summary of calculations of what it
15 would cost to pay Northwest Detention Center detainee workers
16 at Washington minimum wage rate; is that true?

17 A I'm sorry. Say that again.

18 Q That is -- the numbers under "Tacoma" are the inputs or
19 the pieces of data that resulted in the calculation of the
20 bottom line of what it would cost to pay Northwest Detention
21 Center detainee workers at Washington minimum wage.

22 A Yes, that's what it says.

23 Q So for Tacoma, the number of detainee workers underlying
24 the calculation was 470; is that correct?

25 A That's what it says, yes.

1 Q The number of detainee hours was 294,873; is that right?

2 A That's what it says, yes.

3 Q This was 2018, so the minimum wage was listed as 11.50; is
4 that right?

5 A That's what it is listed as.

6 Q It is a math problem at this point, but the calculation of
7 the annual cost of paying detainees minimum wage for their
8 work at the Northwest Detention Center was \$3,391,040; is
9 that correct?

10 A Yes, correct.

11 Q Did you ever ask to see the underlying documents from the
12 Northwest Detention Center that gave rise to the number of
13 detainee workers or the number of hours?

14 A No.

15 Q Will you pull up Exhibit 20, please, side by side with
16 this one?

17 A I don't see an Exhibit 20.

18 Q Mr. Evans, I may not have provided that to you. We will
19 pull it up on the screen, and you will take a look at it
20 there, if you would.

21 Exhibit 20 was previously admitted, but I want you to
22 take a look down here at the "total workers" on the bottom,
23 the total number of detainee workers on the bottom. It says
24 "470." Do you see that?

25 A Okay.

1 Q And that matches the number of detainee workers on 602-A;
2 is that right?

3 A It does match, yep.

4 Q We can take Exhibit 20 away. There is another part of
5 602-A that I wanted to point out, which is the second part of
6 the title. It's where it says, "Assumes direct pass-through
7 to ICE, no G and A or fee applied." Do you see that?

8 A Yes.

9 Q When this calculation was done, the assumption was that
10 there would be no financial impact to GEO's bottom line
11 because you assumed that ICE would just pay the increased
12 cost; is that right?

13 A If they kept it part of the voluntary work program, that's
14 correct, it's a pass-through item.

15 Q So let's go on to the next calculation, that is 602-B. If
16 you could take a look at that, please.

17 A Okay.

18 Q That is another one of GEO's business records; is that
19 correct?

20 A Yes, apparently.

21 Q That is the summary of the annual impact of replacing
22 detainees with GEO employees broken down by region and
23 facility; is that right?

24 A Hold on. That's what it says, yes.

25 MS. BRENNEKE: I offer Exhibit 602-B.

1 MS. SCHEFFEY: Objection. There is no foundation.
2 She's not asked him if he's seen it before, what it is.
3 Simply stating it is a business record doesn't lay the
4 foundation. That may get around hearsay, but doesn't get
5 around foundation with this witness.

6 THE COURT: I want to talk to counsel about this so
7 we will excuse the jury for lunch. Come back ready to go
8 back at your computer work at 1:00. You may be excused.

9 (The following occurred outside the presence of the jury.)

10 THE WITNESS: Do I step out as well?

11 THE CLERK: That was my question as well. Do you
12 want the witness to remain in here?

13 THE COURT: It doesn't matter to me.

14 It seems to me, I guess, that I am not sure that Mr. Evans
15 saying it was a business record completes the foundation for
16 admission. I don't have the rule in front of me. I think
17 there is more to it than that.

18 The second, this second exhibit that was referred to, he
19 said it is a business record apparently, as though, you know,
20 I am not sure he knows whether it is a business record or
21 not. He assumes it is. And I am not sure. This is the kind
22 of thing that you could put these numbers on a board without
23 any exhibit and you would get to the same conclusion that
24 they are -- how they got to those figures that appear in the
25 letter. I think we are kind of barking up the wrong tree

1 here with this evidence.

2 MS. BRENNEKE: Your Honor --

3 THE COURT: With these exhibits.

4 MS. BRENNEKE: Your Honor, if I may. There has
5 been -- I believe first we can certainly lay additional
6 foundation after the break. I was mindful of time and was
7 trying to finish with this witness to go straight to the
8 heart of it.

9 Secondly, Your Honor, there has been testimony
10 specifically from Mr. Hill that there was no calculation of
11 what it would cost to replace the detainee workers or the
12 value of their work. This goes directly to a number of
13 issues related to repeated testimony from GEO that all they
14 do is chores, that this work has no value. It also goes to
15 the economic realities of this facility and what role that
16 detainee workers play in the overall operations of the
17 facility.

18 So there is this exhibit and then there is some breakdowns
19 of the Northwest Detention Center as well. You can see the
20 bottom line here is exactly the number that was in 365-A. It
21 is what was passed on to GEO, GEO's client, ICE. It is
22 clearly a business record in that regard. It is the
23 underlying documents for it.

24 The last exhibit is one that sort of breaks down the
25 Northwest Detention Center facility and what it would take to

1 replace detainee workers. So it goes right to the heart of
2 plaintiff's claim and evidence, Your Honor.

3 MS. SCHEFFEY: Here is the problem I am having: This
4 has been raised before --

5 THE COURT: Wait a minute. Wait a minute. Wait a
6 minute.

7 MS. SCHEFFEY: If I may be heard.

8 THE COURT: Go ahead, Ms. Scheffey. I have to shift
9 gears to hear you.

10 MS. SCHEFFEY: The problem I am having, Your Honor,
11 is that we have, you know, presented prior to trial the
12 evidence that the numbers were never disclosed outside of GEO
13 and that they were created by their legal department. He
14 reviewed these. I am not getting the opportunity to ask him
15 whether he reviewed them, whether those are his numbers, if
16 he came up with them. That deprives me of the ability to
17 claim privilege over these if he is working with the legal
18 department.

19 While legal documents are business records, that doesn't
20 mean that they have to come in, doesn't mean they have a
21 sufficient foundation.

22 As you see in the letter, this is all about the cost of
23 these lawsuits. The fact that lower level finance people
24 maybe didn't know about a damages model is not indicative of
25 what models they may have done for ICE contracts or for

1 figuring out what to pay detainees.

2 THE COURT: All this is very interesting. What we
3 are talking about is the admissibility of exhibits. That is
4 based on the rules of evidence and the proper foundation. I
5 understand the relevance. I don't think that is an issue.
6 Under the present status of the testimony, it is a matter of
7 admissibility of the exhibits.

8 MS. BRENNEKE: Thank you, Your Honor. May I have the
9 opportunity to lay a more detailed foundation after the
10 break?

11 THE COURT: Oh, sure. Yeah. You are in charge of
12 what questions you want to ask. And I'm in charge of either
13 letting you ask them or not letting you ask them.

14 MS. BRENNEKE: Good thing someone is in charge.

15 THE COURT: I wonder who it is. All right. It is
16 lunchtime. Thank you.

17 (Recessed.)

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AFTERNOON SESSION

JUNE 9, 2021

(The following occurred outside the presence of the jury.)

THE COURT: I am going to change my ruling on 602-A. I am going to change my ruling. I made a mistake in admitting it under 803(6), the business records. That's without prejudice to reoffer with further identification.

MS. BRENNEKE: This spreadsheet was produced by GEO after the deposition of Mr. Evans. We presented the relevant pages with redactions, but there is also a native format of that. In order to clear up the admissibility of the exhibits, we would like the opportunity to voir dire the witness outside the presence of the jury and being able to use that native exhibit. We would like to do it in front of the jury, we are mindful of GEO's confidentiality concerns and that's why we didn't approach it that way to begin with.

MS. SCHEFFEY: I don't know if you want to hear from me. I think voir diring him outside the presence of the jury makes sense.

THE COURT: Speak up.

MS. SCHEFFEY: Voir diring him outside the presence of the jury may make some sense.

THE COURT: May be what?

MS. SCHEFFEY: Makes sense so we are not reading the document to the jury before it is admitted.

1 THE COURT: We will do that. We will leave the jury
2 cooking for a few minutes. You may inquire, Ms. Brenneke.

3 Go ahead, counsel.

4 VOIR DIRE EXAMINATION

5 BY MS. BRENNEKE:

6 Q Mr. Evans, good afternoon. You previously -- you are
7 muted, Mr. Evans, can you unmute so we get a clear record.

8 A Sorry.

9 Q Prior to the break, you previously testified to the letter
10 of May 30th, 2018 that GEO sent to ICE requesting an
11 equitable adjustment; is that right?

12 A Yes.

13 Q In that letter, there were two calculations, one based
14 upon paying minimum wage to detainee workers and the other
15 based upon replacing detainee workers with employees from the
16 community; is that right?

17 MS. SCHEFFEY: I object. The document speaks for
18 itself. I don't believe there were calculations.

19 THE COURT: This is a preliminary question. The
20 objection is overruled.

21 THE WITNESS: Can you say the question again,
22 Ms. Brenneke?

23 MS. BRENNEKE: Can you pull up 365-A.

24 THE WITNESS: I am looking at it.
25

1 BY MS. BRENNEKE:

2 Q 365-A includes two bottom line numbers, effectively the
3 calculations for paying detainees minimum wage and the second
4 is replacing detainees with GEO staff from the community; is
5 that right?

6 A Yeah, I would say it is a summary of the estimated amount.
7 It is not the calculations, but a statement of what the
8 calculation was.

9 Q It is true that that was done in May of 2018. It was sent
10 in May of 2018; is that right?

11 A Yes.

12 Q You were aware at that time that those calculations had
13 been completed based upon an analysis of facility staffing
14 and information obtained from the bottom up in the
15 corporation; is that right?

16 A Well, I am not really -- I just want to be careful. I
17 didn't look at any detail of how these numbers were
18 calculated. I saw the letter and I have a general
19 understanding that it came from, you know, within the
20 organization, either the facility through the regions or
21 something along those lines.

22 Q You acknowledge that on or around 2018, that process
23 happened and that you reviewed those figures, correct?

24 A Again, when you say "those figures," which figures are you
25 referring to? I remember the letter, as we talked about.

1 Then the other exhibit, I may have seen that one. That
2 vaguely looks familiar. That's the level of the detail that
3 I saw. I didn't go any deeper than that. I didn't look at
4 detailed calculations by facility or anything of that sort.
5 I know definitively that is not the case.

6 Q Mr. Evans, what we are doing is establishing the
7 admissibility of the document. I am not asking you to verify
8 the specific numbers on each document. Okay?

9 A Right. When you say "detail," I have a different sense of
10 what "detail" is versus just some numbers summarized on a
11 page. That's not the detail to me.

12 Q You recall in your deposition I asked you if there had
13 been some analysis of the value of detainee labor in the GEO
14 facility. Do you recall that?

15 MS. SCHEFFEY: Can I have the Bates number?

16 THE WITNESS: Go ahead. Sorry.

17 BY MS. BRENNEKE:

18 Q Mr. Evans, did you hear my question?

19 A Was there an objection? I don't know. Repeat it.

20 Q You indicated in your deposition that there had been some
21 analysis done by GEO at some point advising the government on
22 the cost of what the labor would look like if it was all done
23 by civil employees. Do you recall testifying to that?

24 A That's this letter.

25 Q That's the underlying analysis that went into the letter,

1 right?

2 A Say that again.

3 Q That's the letter and the underlying analysis that went
4 into it?

5 A There is an analysis that went into the letter.

6 Q And I had asked you --

7 MS. SCHEFFEY: I am going to object to you reading
8 the deposition into the record without giving me the page
9 number and without giving the witness the ability to observe
10 it and see the surrounding text and confirm it is accurate.

11 THE COURT: Wait a minute. The objection is
12 overruled. That is not what is going on here. Go ahead.

13 BY MS. BRENNEKE:

14 Q Mr. Evans, you also, as part of the analysis that you
15 reviewed, there was an assessment of how many full-time
16 employees would be necessary to replace detainee workers at
17 the Northwest Detention Center, correct?

18 A Well, that's what we looked at on Exhibit 602. Like I
19 said, I didn't review that calculation or the process. I may
20 have seen that summary sheet. I didn't go beyond anything
21 that is on that summary sheet.

22 Q On -- you agree that that was part of the analysis that
23 was conducted by GEO, correct?

24 A Yes, that is what is on the summary sheet.

25 Q You reviewed some of the work that was done in that vein;

1 isn't that right?

2 A That's what I am saying. I did not review -- the only
3 thing I saw is the letter for sure. Then if I saw any other
4 document, it would have been that first exhibit that we
5 looked at. Nothing below that. I didn't look at how the
6 thing was calculated or anything. I looked at the summary
7 total. That's -- the summary is on 602-A.

8 Q On 602-B, if you take a look at that.

9 A B or D?

10 Q Let's look at B. Sorry. 602-B. Did you look at the
11 summary total on 602-B as well?

12 A This one, I honestly don't recall.

13 Q Recall the time I took your deposition and I asked you the
14 question, how many -- this is on Page 112 at Line 6. I asked
15 you, "How many FTEs or how many hours worked by full-time
16 employees would be necessary to replace the detainee workers
17 and the work they do at the Northwest Detention Center?"
18 There was an objection. I asked the follow-up question at
19 Line 13, "Was that part of the analysis that you conducted?"
20 Do you recall that?

21 A In my deposition? No, if that is what you say the
22 question was. I don't recall my answer.

23 MS. SCHEFFEY: Do you have a copy of your deposition?

24 THE WITNESS: Sorry.

25

1 BY MS. BRENNEKE:

2 Q Take a look at Page 112.

3 A I am on 112. What line number?

4 Q Review -- 6 was the original question, "About how many
5 FTEs at the Northwest Detention Center." Line 13, I asked
6 you, "Was that part of the analysis you conducted?" Do you
7 see that?

8 A Yep.

9 Q At that time you answered, "Yeah, I reviewed some work
10 that was done in that vein. I think, you know, it would have
11 been done from the perspective, as I described it, as to how
12 much it would take to get it done." You continued to
13 describe that; is that right?

14 A Right. So --

15 Q Before you go on, Mr. Evans, I just want to have you
16 acknowledge that you acknowledged at the time of your
17 deposition that you reviewed some work that was done in that
18 vein; is that correct?

19 A That's right. I think that is 602-A.

20 Q Mr. Evans, the question posed was how many FTEs or how
21 many hours worked by full-time employees would be necessary
22 to replace the detainee workers and the work they do at the
23 Northwest Detention Center. That was the question, correct?

24 A Okay.

25 Q Line 6.

1 A Yes, Line 6. That was the question. Doesn't look like I
2 answered the question.

3 Q Exhibit 602-B --

4 A Okay.

5 Q -- is the annual impact of replacing detainees with GEO
6 employees, correct?

7 MS. SCHEFFEY: I am going to object because we keep
8 skipping over his answer from the deposition, which is,
9 "That, I don't know," which is on 11. We skipped it three
10 times. You said what was the question. His answer was,
11 "That, I don't know."

12 MS. BRENNEKE: He said, "That, I don't know." I
13 said, "Was that part of the analysis that you conducted?"
14 That was Line 13. You said, "Yeah, I reviewed some work that
15 was done in that vein." Correct?

16 THE WITNESS: Right. So I don't know how many FTEs
17 it was.

18 BY MS. BRENNEKE:

19 Q I am not asking you that. I appreciate there is a lot of
20 detail here. Mr. Evans, I would like -- you will acknowledge
21 you reviewed the work that was done in-house at GEO to
22 determine the annual impact of replacing detainee workers
23 with GEO employees, correct?

24 A No, I don't think that is true. You know, I don't want to
25 parse words. To review the detailed work -- if we look -- if

1 I could look at 602-B. Somebody did something to calculate
2 these numbers on this page on 602-B. I didn't look at any of
3 that. I don't recall seeing this summary. I recall the
4 letter and looking at that. There may have been like a quick
5 discussion. I think this was all kind of a rushed process to
6 get this letter out. So, you know, the budget and finance
7 people didn't produce or review this. I think maybe the
8 local staff in the facility did some work and submitted it up
9 either through legal. I don't know who. I saw the letter.
10 I vaguely recall seeing the first sheet. I really don't
11 recall this level of detail.

12 I think I was more surmising this is what -- something
13 along this line might have been done to support the numbers
14 in the letter because I think you were asking me to speculate
15 how that may have been calculated.

16 Q Okay. So you did verify that there was a factual basis
17 for the numbers that were contained in the letter to ICE; is
18 that right?

19 A Yeah, it was a reasonable, quick, back-of-the-envelope or
20 back-of-the-napkin type process to get something done
21 quickly.

22 Q I would like you to take a look now at Exhibit 602. We
23 are going to present it to you in its native format on the
24 screen so you can look at it, unless you have access to that
25 on your computer?

1 A I have 602-A through D.

2 Q Those are the PDFs of certain tabs. Let's put up the
3 native 602, please. Do you recognize this first page of 602
4 as the annual impact of replacing detainees with GEO
5 employees?

6 A When you say "do I recognize," are you asking is that what
7 it says or do I recall seeing this schedule? Because as I
8 said, this looks like the same schedule before but
9 unredacted.

10 Q Yes. Exactly. That's the same as 602-B but unredacted?

11 A Yes.

12 Q And this -- does this appear to you to have all of the
13 western region, central region, eastern region GEO ICE
14 facilities?

15 A It appears to. At that point in time, I would have to go
16 back and look. Seems right.

17 Q Does this appear to be the type of spreadsheet and
18 staffing analysis that typically is done within the course of
19 business within GEO?

20 A No. I mean, again, this was for a unique purpose to send
21 that letter to calculate something for that letter. This is
22 not something we would normally do. In fact, we have never
23 done anything like it.

24 Q Okay. It was done in that particular instance for the
25 business reason of sending on a request for equitable

1 adjustment to ICE; is that right?

2 A Yeah, that seems to be the case.

3 Q If you see -- if you see the salary expense, G and A
4 overhead. G and A overhead is something you would calculate
5 in the normal course of business operations; isn't that true?

6 A Yeah, again, like I said, I think this was done in a very
7 rapid fashion so that is -- somebody just used a standard
8 approximate rate. Our overhead rate on a per facility basis
9 if we were going through a pricing process is going to vary
10 from facility to facility. Could be anywhere from five and a
11 half to nine percent or ten percent.

12 Q They used one of the standard approximate rates GEO would
13 normally use?

14 A They used an approximation because all they were doing
15 here is doing a rough order of magnitude type analysis.

16 Q They also did a per diem, like they did an analysis of
17 what that would result in as a per diem for the ICE
18 contracting, correct?

19 MS. SCHEFFEY: Objection, foundation.

20 THE WITNESS: It says there is a per diem down there.
21 I don't know how they calculate it without looking at the
22 cell and seeing what the calculation was.

23 BY MS. BRENNEKE:

24 Q Per diem rates are the unit of measure of how GEO is paid
25 by ICE for detention management services, correct?

1 A No.

2 Q Pardon me?

3 A No.

4 Q You don't use per diem rates, bed-day rates?

5 A Most of our contracts -- all of the contracts in the
6 western region were paid a fixed price for a portion of the
7 contract. Then there is an incremental per diem for
8 occupancy or use above that fixed price.

9 Q The fixed price meaning there is a minimum guarantee for a
10 certain number of beds, correct?

11 A Yeah. It is a minimum monthly payment typically that the
12 government makes for a base amount of the contract activity.

13 MS. SCHEFFEY: I object. We are way beyond --

14 BY MS. BRENNEKE:

15 Q I am going to go to the Tacoma tab, please. Are you
16 familiar with the general way that this spreadsheet is laid
17 out for the Tacoma facility?

18 A Yes.

19 Q Can you tell us what you notice about the general way the
20 spreadsheet is laid out?

21 A It is a listing of positions. Calculates a cost per
22 position or a cost for a typical shift or category of
23 workers.

24 Q This is consistent with the kind of pricing documents that
25 GEO uses for the Northwest Detention Center facility pricing

1 process; is that correct?

2 A Similar, yep.

3 Q If you go to the next tab, Tacoma summary, that becomes
4 then an analysis of how many additional staff would be needed
5 on top of existing staff to replace detainee workers; is that
6 correct?

7 A What does it say on the top? Oh, that's what it says.
8 Like I said, I wasn't part of the analysis, and I didn't
9 review this level of detail so this is the first time I am
10 seeing it.

11 Q You know someone within GEO used the standard forms of
12 pricing analysis and came up with a conclusion that there
13 would be 85 staff -- additional staff members necessary; is
14 that right? If you can go to the bottom of that.

15 A The green box?

16 Q Yes. You are aware this document was made by people who
17 had knowledge either at the facility level or the regional
18 level; is that right?

19 MS. SCHEFFEY: Objection, misstates prior testimony.

20 THE WITNESS: I assume that would be the case.

21 THE COURT: Overruled.

22 THE WITNESS: I don't know who prepared it. Like I
23 said, it may have been prepared by someone else at the
24 facility. Could have been done by one person at corporate.
25 I really don't know.

1 BY MS. BRENNEKE:

2 Q The existing staff and the information about salary, that
3 all requires knowledge that is GEO knowledge about how it is
4 currently staffed, correct?

5 A Right.

6 Q You are aware that during your deposition, I asked you
7 whether you had access to the underlying calculations because
8 we didn't have them in front of us at that time, did we?

9 A Right.

10 Q You believed that they would have been saved and retained
11 because at that point, due to their recency, they would not
12 have been destroyed, correct?

13 MS. SCHEFFEY: Can you give us a page and line?

14 BY MS. BRENNEKE:

15 Q Page 120 -- 119, I said, "Would you have a way of finding
16 that and finding the underlying price analysis of the labor
17 economics that backed up the summary costs?" You said at
18 120, Page 4 (sic), "If it has been saved and still retained,
19 yes. I mean -- given the recency of it, I think it would
20 still be available, but I don't know for sure." Do you
21 recall saying that?

22 A I don't recall saying that. If that's my testimony, I
23 stand by it. I am having a hard time getting to the --
24 getting out of this screen.

25 Q I think we can take down the screen now.

1 Mr. Evans, is it --

2 A There we go.

3 Q Is it consistent with GEO's business practices that if it
4 produces spreadsheets and documents that it sends to the
5 federal government, that it maintains copies of those
6 documents in its normal course of business?

7 A Yes.

8 MS. BRENNEKE: Your Honor, these documents were
9 produced to plaintiffs as part of discovery late in the
10 process after a lot of motions to compel, a mandamus action,
11 and then again motions to compel. There is no dispute as to
12 the authenticity of these documents. We offer them for
13 admission before the Court.

14 MS. SCHEFFEY: Your Honor, GEO objects. First, it
15 would note that Your Honor specifically said in the motion to
16 compel that by ordering we turn over the documents, you were
17 not making a ruling on the admissibility of those.

18 I would point to -- I believe they are relying on business
19 records -- 803(6) first requires this is a
20 regularly-conducted activity.

21 The witness has testified he has never seen anything like
22 this. It was a one off. So it is not regularly conducted.

23 I would further state the witness has testified he has not
24 seen this before until today.

25 Finally, I would ask for the opportunity to ask a few

1 questions of the witness, at least complete his testimony
2 from some of this deposition because it has been read in
3 piecemeal.

4 THE COURT: I don't think you made out the
5 foundation, counsel, for 602-A, B or C.

6 MS. BRENNEKE: He testified specifically he heard
7 602-A.

8 THE COURT: I heard what he testified to. I don't
9 think you made out a foundation for any of those. I'm sorry.
10 That's my ruling.

11 Let's get the jury in here and go to work.

12 THE CLERK: All the jurors have joined.

13 (The following occurred in the presence of the jury.)

14 THE COURT: Ladies and gentlemen, I'm sorry, we have
15 eaten into a half hour of your time here today on this issue.
16 There are matters that come up during a trial that require
17 that I discuss them with the lawyers and do that outside your
18 presence. These are matters of law and admissibility of
19 evidence and procedure. We are not trying to keep anything
20 from you that you should hear. We try to keep such
21 conferences to a minimum. Anyway, this took some time.

22 I indicated before the noon hour that 602-A would be
23 admitted. I am changing my ruling. 602-A is not admitted in
24 evidence. That does not mean you cannot consider the
25 witness's testimony on that subject.

1 Go ahead, Ms. Brenneke.

2 DIRECT EXAMINATION (Resumed)

3 BY MS. BRENNEKE:

4 Q Mr. Evans, I would like you to take a look at Exhibit
5 365-A.

6 A I have it up.

7 Q In the little box, you testified that there was a \$22
8 million annual cost for paying state minimum wage to ICE
9 detainees at GEO's 12 facilities totalling 11,000 beds; is
10 that correct?

11 A Yes.

12 Q The portion of the minimum wage payments to pay the
13 Northwest Detention Center detainees minimum wage was
14 approximately \$3,400,000; is that correct?

15 A On this page?

16 Q For the breakdown of the calculations. When you
17 understand how the calculations were broken down, the portion
18 attributable to the Northwest Detention Center was
19 \$3,400,000; is that correct?

20 A Yes.

21 Q And similarly for the second line, the 38 -- \$38 million
22 annual cost replacing all GEO ICE detainees with full-time
23 employees. The analysis from the Northwest Detention Center
24 would be that there were 85 full-time employees required at
25 the Northwest Detention Center to replace the detainee

1 workers, correct?

2 A That's what the schedule said.

3 Q 85 full-time employees?

4 A Okay. Yes.

5 Q So you testified you were sure that if GEO had to pay the
6 minimum wage, that GEO would pass on those increases of costs
7 to ICE through an equitable adjustment; isn't that true?

8 That is what you testified to?

9 A Yes, I believe that is what would happen, yes.

10 Q And a request for equitable adjustment is really just a
11 request to ICE to modify its contract and pay GEO more; is
12 that correct?

13 A Typically, it is financial. There could be other types of
14 adjustments or modifications to the contract, but yes.

15 Q And this exhibit, 365-A, was related to a couple of
16 requests for equitable adjustment that GEO submitted to ICE,
17 in specific to request that ICE pay GEO's legal fees; is that
18 right?

19 A Let me just read -- move up a little bit.

20 THE COURT: You are not coming through real clear.

21 THE WITNESS: I wanted to scroll up to the top to
22 read. It was a request for equitable adjustment.

23 Reimbursement for cost already incurred.

24 BY MS. BRENNEKE:

25 Q That was for costs incurred in these lawsuits to defend

1 against having to pay, correct?

2 A That's correct.

3 Q The last time GEO asked ICE to pay GEO's attorney's fees,
4 ICE denied that request, didn't it?

5 A I don't know. To which are you referring?

6 Q Well, ICE denied the request of May 30th, 2018 that
7 Mr. Zoley made to take over the defense of these lawsuits and
8 reimburse GEO for its costs; isn't that true?

9 A Yes.

10 MS. BRENNEKE: Thank you. I have no further
11 questions.

12 CROSS-EXAMINATION

13 BY MS. SCHEFFEY:

14 Q Good afternoon. How are you, Mr. Evans?

15 A Good.

16 Q Do you remember earlier you were asked whether GEO began
17 paying minimum wage to detainees after this lawsuit was
18 filed?

19 A Yes.

20 Q Do you know why you didn't start paying minimum wage at
21 that point?

22 A Well, I don't recall my testimony exactly. As I said, I
23 think it is contractual. There is -- the program requires it
24 be a voluntary work program, that it is approximately a
25 dollar a day. The individuals that participate in the

1 program, the detainees are not eligible generally, to the
2 best of my knowledge, to be employees. It would be a
3 violation of federal law. I think it would -- personally, it
4 would look bizarre for a federal contractor who is working
5 for the department responsible for enforcing immigration law
6 to be violating federal employment law.

7 MR. BERGER: Your Honor, I object to the extent the
8 witness is giving a personal opinion on that subject and ask
9 that part of the testimony be stricken.

10 THE COURT: The answer was not totally responsive,
11 and that portion of the answer reflecting the witness's
12 personal opinion should be stricken and disregarded by the
13 jury.

14 BY MS. SCHEFFEY:

15 Q Can we pull up Exhibit 365-A?

16 A I have it.

17 Q Hopefully the tech team will get it up for the jury,
18 although I am sure they have seen it a lot by now. Why was
19 this letter written?

20 A Well, as I said, at the time it was written to obtain --
21 try to obtain support from the government for defending the
22 voluntary work program against these lawsuits and to get
23 reimbursement for the legal costs it already had incurred.

24 Q So if we can look in the box, see where it mentions 12
25 facilities?

1 A Yes.

2 Q Are those ICE facilities?

3 A They are facilities that GEO owns and operates on behalf
4 of ICE. They are all ICE detention centers.

5 Q Do they all have a voluntary work program?

6 A To the best of my knowledge.

7 Q Do any of them pay minimum wage right now?

8 MS. BRENNEKE: Objection, sounds like foundation is
9 at issue.

10 THE COURT: I think he may answer this question, if
11 he knows.

12 THE WITNESS: Repeat the question.

13 BY MS. SCHEFFEY:

14 Q Do any of those facilities pay minimum wage right now?

15 A To detainees?

16 Q Yes.

17 A No.

18 Q Do all 12 facilities have the same profitability margin as
19 the Northwest ICE Processing Center?

20 A No.

21 Q Is the reason the Northwest ICE Processing Center has a
22 higher margin than the other facilities is its use of the
23 voluntary work program?

24 MS. BRENNEKE: Object to the form. Leading.

25 THE COURT: Sustained.

1 BY MS. SCHEFFEY:

2 Q Does the voluntary work program have any impact on
3 profitability at the Northwest ICE Processing Center?

4 A No.

5 Q Does it give the Northwest ICE Processing Center a
6 competitive edge over the other 12 facilities?

7 A No.

8 Q You talked about how you are a for-profit company; is that
9 correct?

10 A Yes.

11 Q Does GEO reinvest any of the profits in its facility?

12 A Yes.

13 MS. BRENNEKE: Objection, this is beyond the scope.

14 THE COURT: I think he may answer. Pretty
15 repetitive, counsel, but he may answer.

16 BY MS. SCHEFFEY:

17 Q Does GEO reinvest any of its profit?

18 A Yes.

19 Q You discussed that you are involved in business
20 development; is that correct?

21 A Yes.

22 Q Is GEO incentivized to reinvest its profits for
23 competitive reasons?

24 A Yes.

25 Q Why is that?

1 A Well, we believe we have the best facilities and that
2 helps with our client relations. It promotes safety and
3 security of our staff and the people that are under our care,
4 so there is an incentive to ensure that the business is
5 maintained by reinvesting back into the business. It is
6 pretty standard for most businesses to do that.

7 Q Okay. Do you know what the total amount of the award of
8 the Northwest ICE Processing Center is?

9 A Not exactly, no.

10 Q Are you generally familiar with what the total award of a
11 contract is?

12 A Not typically. I mean, at the time they are awarded, it
13 might be announced and I would see it. Not typically.

14 Q Okay. So if we could pull up Exhibit 129. I am going to
15 go to Bates No. 036866. I think that there is a number in
16 there, total amount of award. Can we blow that up? Have you
17 seen this before, Mr. Evans?

18 A What page are you on?

19 Q 036866 is the Bates number at the bottom. Also on the
20 screen, if that is easier.

21 A You said 866?

22 Q Yeah.

23 A Okay. 866.

24 Q See the section that says the total amount of the award?

25 A No. Yes, there it is. It is small. Yep.

1 Q What does this number represent?

2 A That would represent the -- for all the years, for all the
3 different contract line items, the value of the contract if
4 the government were to utilize all of the services.

5 Q What do you mean if the government were to utilize all of
6 the services? Is there a circumstance where they wouldn't?

7 A Well, they won't. They never do. ICE never utilizes all
8 of the -- especially in the bed -- the beds or occupancy,
9 they never use 100 percent of the capacity of the facility.
10 Typically, occupancy is 75 to 85 percent on average.

11 They are not going to use all the transportation, all the
12 line items amounts. At the end of the contract, what do they
13 ultimately use? I don't know. Be a substantial portion of
14 that, but won't be all of it.

15 Q Can GEO count on getting the entire amount as revenue?

16 A No, we won't get that entire amount. That's what I am
17 saying. It would be something less than that.

18 Q Are you familiar with the term "net margin"?

19 A Yes.

20 Q Does a net margin account for legal fees?

21 A Not really. Not in our facilities, no.

22 Q Is -- do you tip --

23 A Legal fees are typically incurred in the corporate office
24 and are part of our general and administrative expenses.

25 Q Do you calculate profit typically on a facility by

1 facility basis?

2 A We calculate, as I said before, pretax operating profit or
3 pretax margin. Profit is really the net income of the
4 company, which is we take all the operations, all the
5 revenue, less all of our expenses, interest, costs, taxes, et
6 cetera, that results in our net income or profit, which year
7 in and year out is typically seven to eight percent of our
8 revenue.

9 Q How do your profits compare to other for-profit companies
10 on the New York Stock Exchange?

11 MR. BERGER: Objection, foundation.

12 THE COURT: The objection is sustained.

13 BY MS. SCHEFFEY:

14 Q Yeah. Are you the CFO of the company, Mr. Evans?

15 A Yes.

16 Q Are you familiar with the general profits of other
17 companies that are traded on the New York Stock Exchange?

18 A Generally.

19 Q Are your profits comparable to others on the New York
20 Stock Exchange?

21 A I think they are reasonable. Probably in the lower half
22 of the range.

23 Q Is there a financial incentive to replace a GEO employee
24 with voluntary work program detainees?

25 A No.

1 Q Why not?

2 A Well, ultimately we are a service company. The biggest
3 service we provide is labor and staffing to manage these
4 institutions. Our markup, if you will, is on top of all of
5 our costs to operate the facility. If we had more costs, we
6 are going to mark it up by approximately the same percentage.
7 Those rates are controlled by regulations in the government
8 referred to as the federal acquisition regulations, but they
9 set kind of a range and a formula for how you calculate what
10 is allowable.

11 The contracting officers, they are familiar with those
12 rules. We are familiar with those rules. We price our
13 contracts in accordance with those rules. If the cost -- the
14 underlying costs to operate go up, necessarily the government
15 is going to pay more and there will be a little bit more
16 margin or fee for the company.

17 Q Are any of your profits dependent on the voluntary work
18 program?

19 MS. BRENNEKE: Object to the form.

20 THE COURT: Sustained.

21 BY MS. SCHEFFEY:

22 Q Are you aware of any occasion where participation in the
23 voluntary work program decreased and the company's overall
24 profits also decreased?

25 A No.

1 MS. SCHEFFEY: No further questions.

2 THE COURT: Any further questions of Mr. Evans?

3 MS. BRENNEKE: Yes, a couple.

4 REDIRECT EXAMINATION

5 BY MS. BRENNEKE:

6 Q Previously, Exhibit 253 was admitted. I would like to
7 have Caiti please pull that up.

8 A I don't have that one.

9 Q I will show it to you on the screen. Mr. Evans, this
10 is -- this has been previously admitted as a financial
11 summary of the Northwest Detention Center. Does that look to
12 be consistent with what you understand the revenues, gross
13 margin and net margin to be for the Northwest Detention
14 Center?

15 A Yep, that looks like that, yes.

16 Q And because we were talking about this 2018 letter to ICE,
17 I want you to focus your attention on the column 2018. The
18 gross margin for the Northwest Detention Center for 2018 was
19 \$18,603,000?

20 A That's what it says.

21 Q If you were to subtract the cost of the minimum wage
22 payment to detainee workers of \$3,400,000, there would still
23 be a profit -- a substantial profit at the Northwest
24 Detention Center, correct?

25 A Which amount would I be subtracting?

1 Q Recall you said the portion of detainee wages calculated
2 at the minimum wage for the Northwest Detention Center was
3 3.4 million; is that correct?

4 A Yes.

5 Q If you were to pay that in 2018, the gross margin for the
6 Northwest Detention Center would still be substantial,
7 wouldn't it?

8 A It would be about 15 million. The net margin would be cut
9 in half almost.

10 Q The net margin would be over 5 million, correct?

11 A About 5 million.

12 MS. BRENNEKE: Thank you. No further questions.

13 MS. SCHEFFEY: One final question, Your Honor.

14 RE CROSS-EXAMINATION

15 BY MS. SCHEFFEY:

16 Q Mr. Evans, is the reason you don't pay detainee volunteers
17 minimum wage because you can't afford it?

18 MS. BRENNEKE: Objection. Leading.

19 THE COURT: Sustained.

20 BY MS. SCHEFFEY:

21 Q Why don't you pay detainee workers minimum wage?

22 A Well, as I said before, the primary reason is we believe
23 it would be in violation of the law. It is in -- it is in
24 violation of our contract, and we believe it would be in
25 violation of federal law.

1 MR. BERGER: Objection, Your Honor, violates one of
2 the Court's earlier orders on evidence.

3 THE COURT: The objection is sustained. The jury
4 should disregard the witness's last answer.

5 BY MS. SCHEFFEY:

6 Q Mr. Evans, is there a financial reason you don't pay
7 detainees minimum wage?

8 A No.

9 MS. SCHEFFEY: No further questions.

10 THE COURT: Okay. Thank you, Mr. Evans. You may be
11 excused.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: You may call your next witness.

14 MR. WHITEHEAD: At this time, we call Ugochuwu
15 Goodluck Nwauzor.

16 MS. SCHEFFEY: Does he have the exhibits in front of
17 him as well?

18 MR. WHITEHEAD: Yes, we printed those off.

19 THE CLERK: The witness has just joined.

20 THE COURT: There he is.

21 Mr. Nwauzor, can you hear me? Unmute your phone. Raise
22 your right hand and be sworn.

23 UGOCHUKWU GOODLUCK NWAUZOR,

24 having been sworn under oath, testified as follows:

25

1 THE COURT: You may inquire, Mr. Whitehead.

2 DIRECT EXAMINATION

3 BY MR. WHITEHEAD:

4 Q Good afternoon. Sir, could you please introduce yourself
5 to the jury?

6 A My name is Ugochukwu Goodluck Nwauzor.

7 Q Sir, were you detained at the Northwest Detention Center?

8 A Yes, sir.

9 Q From when to when?

10 A I came to America in 2016. I can't remember exactly how
11 many months, yeah, but I came to America in 2016.

12 Q Sir, while you were at the Northwest Detention Center, did
13 you work in the voluntary work program?

14 A Yes, sir.

15 Q Well, that's what this case is about. Before we hear your
16 testimony about the voluntary work program, I would like for
17 the jurors to get a better sense of who you are. How old are
18 you?

19 A 43 years old.

20 Q Thank you. What is your first language, sir?

21 A My first language is Igbo language.

22 Q Do you feel comfortable testifying in English today?

23 A Yes, I will try my best.

24 Q Where were you born?

25 A Enziama, Imo State, Nigeria.

1 Q What part of Nigeria is that?

2 A It is east, east part of Nigeria.

3 Q Sir, would it help to explain where you are from if we
4 were to show you a map?

5 A Yes, sir.

6 Q You have a map in front of you. I would like for you to
7 look at the hard copy in front of you.

8 MR. WHITEHEAD: Your Honor, counsel, this is Exhibit
9 608.

10 BY MR. WHITEHEAD:

11 Q I have this Nigeria map. Is this a fair and accurate
12 representation of Nigeria?

13 A Exactly, sir. Nigeria map, yeah.

14 MR. WHITEHEAD: May we publish the map, 609?

15 THE COURT: Are you offering it or offering it as an
16 illustrative exhibit?

17 MR. WHITEHEAD: Illustrative. It can certainly check
18 in as an exhibit. It is just to illustrate his testimony.

19 MS. SCHEFFEY: We object to it as an exhibit but not
20 as illustrative or demonstrative.

21 THE COURT: It may be admitted as an illustrative
22 exhibit.

23 MR. WHITEHEAD: May we publish?

24 THE COURT: Yes.
25

1 BY MR. WHITEHEAD:

2 Q We are going to bring a map of Nigeria up for you to see.
3 I am going to put a mark on the map near Imo state. Is this
4 a map of Nigeria?

5 A Yes, sir.

6 Q I am going to put a circle around Imo state. Did I get
7 it?

8 A Yes.

9 Q Tell us about Eziana in Imo state?

10 A Eziana is a community in Imo state. Imo state is a state.
11 Eziana is a community in Imo state where I was born.

12 Q Before we move on, tell us, what is the community like?

13 MS. SCHEFFEY: Objection, relevance.

14 THE COURT: Overruled.

15 A It is a community dominated by Christian. Then my mother
16 and my father is Christian. I am also born in Christian
17 family. Eziana people, we normally engage in farm
18 production, vegetable, corn, tomato and yam.

19 Q You mentioned your family. Tell us about your family?

20 A I born in a family of Mr. Augustin and Irene Nwauzor.
21 Then I am the younger one of the sons of Mr. Augustin and
22 Irene Nwauzor.

23 Q You have siblings, brothers?

24 A Yes, I have two. I am the younger one.

25 Q Sir, at some point did you move away from your community

1 in Imo state?

2 A Yes, sir. I later moved to Port Harcourt in River state.

3 Q Why did you move away from Eziana?

4 A In 2008, I moved to Port Harcourt where my brother is
5 still residing.

6 Q Why did you move?

7 A Then as a young guy, I moved to Port Harcourt to look for
8 green pasture.

9 Q What did you do for work there?

10 A When I got to Port Harcourt, I learned how to sew gloves
11 and make shoes.

12 Q At some point, did you move away from Port Harcourt?

13 A Yeah, after a period of a year in Port Harcourt, where I
14 opened my own shop. Then due to the competition in Port
15 Harcourt in River state, there was a lot of competition. I
16 have to relocate to the northern part of Nigeria, Borno
17 state, where the capital is Maiduguri.

18 Q I am going to bring the map back up. If we could get
19 Exhibit 609. I am going to draw a circle around Borno state.
20 When I draw that circle, let me know if I have placed it in
21 the right spot. Did I get that right? Is that Borno state?

22 A Yes.

23 Q Is there someplace in particular that you moved to?

24 A In Borno state, I move in a place called Chibok in Borno
25 state.

1 Q In Chibok in Borno state, what did you do there for work?

2 A I established my business there.

3 Q Tell us about Chibok in Borno state?

4 A Chibok is in a community or a county in Borno state that
5 is dominated by a mix of Christian and Muslim. Then that is
6 where I put my business.

7 Q Was it the same sort of business that you had in Borno
8 state?

9 A Yeah, same business I had in Port Harcourt relocated to
10 Borno state.

11 Q Selling men's clothing?

12 A Yeah, and shoes.

13 Q Have you heard of Boko Haram?

14 A Yeah. Boko Haram is predominantly in Nigeria.

15 Q What is Boko Haram?

16 A I would say Boko Haram is a group of people or
17 organization like terrorists or ISIS that destroy adults,
18 killing (inaudible) in the hospital. There was a time
19 that --

20 (Reporter interruption.)

21 Q There is a court reporter. She is giving us a reminder.
22 This is a good reminder for everybody. It is very important
23 we speak slowly so she can type everything down and clearly
24 so she can understand what we are saying. The record is very
25 important in this case. Can you speak slowly and clearly for

1 us?

2 A Okay.

3 Q Is that yes?

4 A Yes, sir.

5 Q I will do my best to do the same.

6 A Okay.

7 Q So we are talking about Boko Haram. Did you have any
8 personal interaction with Boko Haram?

9 A Yeah. In Borno state Chibok precisely, I had an argument
10 with a Boko Haram supporter.

11 Q What did you argue about?

12 A I argued against the atrocities, the killing of
13 (inaudible), burning properties, attacking churches and, you
14 know, business places in Nigeria.

15 Q What happened next?

16 A Then he told me he was going to come for me because if you
17 come against them, they are going to get that person.

18 Q Did they come for you?

19 A Yeah. Later they came to me, my shop and my house. They
20 destroyed it.

21 Q When you say they destroyed it, what did they do?

22 A They bombed my shop and my house.

23 Q Forgive me, I don't mean to dwell on difficult subjects.
24 You had a friend?

25 A Yeah. Yeah.

1 Q That supported you?

2 MS. SCHEFFEY: Objection, relevance.

3 THE WITNESS: They also --

4 THE COURT: Just a minute. The objection is
5 overruled.

6 BY MR. WHITEHEAD:

7 Q You may answer the question, sir.

8 A A friend of mine, he also supported me against the
9 atrocity with Boko Haram performing in Nigeria.

10 Q What happened to your friend?

11 A They also attack, they killed him.

12 Q So Boko Haram bombed your store and your house, what did
13 you do?

14 A I ran.

15 Q Where did you go?

16 A I came back to the east part of Nigeria and Ezicama, my
17 village.

18 Q Did you stay in your village or did you leave?

19 A I didn't leave. I stayed in my village for a period of
20 time. I was hiding because I know that if I go against them,
21 they most surely kill that person.

22 Q As I understand it, at some point you left Nigeria. Do I
23 have that right?

24 A Yes, sir.

25 Q Tell us, we know because you are here today, that you came

1 to America. Tell us about your journey to America?

2 A During this period of time, I was going through this
3 trauma because I know the consequences of anybody that has
4 gone against the way of the Boko Haram. I contacted a
5 friend, you know, who promised to make a connection for me to
6 leave Nigeria because I am afraid. I don't go out any more.
7 I was hiding in the village. I didn't even tell my mother,
8 my father what I am going through because if I tell them they
9 are -- I am going to traumatize them. I was in the village.
10 My mother and father are 80 something years of age. I was
11 there helping them engaging in doing some work in the
12 village, helping them. Both of them have high blood
13 pressure. They are sick. Helping them in the village, at
14 the same time living with fear of my life of the threat
15 because I have seen a lot of the killings these Boko Haram
16 are doing in Nigeria, killing a lot of people who step on
17 them.

18 My friend contacted me. I moved to Lagos where I took a
19 ship down to Brazil. From Brazil, I make my journey down to
20 America.

21 Q Why come to America? Why not go somewhere else?

22 THE COURT: There she is.

23 THE WITNESS: I believe America have the value of
24 human being because when I come to America, I believe that I
25 will have hundred percent protection.

1 BY MR. WHITEHEAD:

2 Q You came to America, did you sneak in to America, sir?

3 A No, sir. When I came to America, I didn't jump the fence.

4 I didn't do anything stupid to come to find myself into

5 America. I walked straight to the port of entry.

6 California -- Mexico, California border to the point of entry

7 when coming to America. I find other people on the line. I

8 get on the line. I walk down to the checkpoints of the

9 security. They asked me who I am. I tell them. Then they

10 took me, dropped me in a place, in a seat, sat me there

11 trying to know who I am and what my aim of coming to America,

12 if I am looking for asylum. Then I told them what happened

13 to me, the reason why I was coming. Then they told me they

14 are going to do investigation to see who I am and where I am

15 coming from.

16 Q Is that when you were taken into ICE custody, immigration?

17 A No. At the point of entry, this is what they tell me. At

18 the point of entry, in California border, that was the

19 security. There was a group of people. Not only me in the

20 port of entry. I met other people from other different

21 countries in the port of entry.

22 Q When you got to the point of entry, did you have any

23 personal belongings with you. Did you have your things?

24 A I had my bag, yeah, some of my little belongings.

25 Clothes, yeah. My belongings.

1 Q Did you have any money with you?

2 A Yeah, \$200 and something U.S. dollars with Mexico money.
3 When I came -- when I was in Mexico, when I bought something
4 I have change, I kind of change with pesos, Mexico pesos,
5 yeah.

6 Q At some point, sir, were you taken to the Northwest
7 Detention Center?

8 A Yeah, at the border after a couple weeks, we spent weeks
9 within California border, not only me, all that group. I met
10 all that group. Then they move us from California border,
11 from California down to Northwest Detention Center.

12 Q The journey from the California border to the Northwest
13 Detention Center, what was that like?

14 A You know, for me, the experience, not easy for me. Yeah.
15 It wasn't easy.

16 Q Why do you say that?

17 A You know, I was thinking, crying, I don't know what is
18 going to be the end of my journey at that moment. I was
19 remembering my mother back home and what I went through
20 before coming to America.

21 Q I'm sorry. I didn't mean to make you relive any of that.
22 Let's talk about the work program. That is what this case is
23 about. When did you learn about the voluntary work program
24 at the Northwest Detention Center?

25 A Yeah, when I get to the Northwest Detention Center, I saw

1 some other detainee doing cleaning up, cleaning the shower
2 and also see other people working in a different area like
3 barber salon, kitchen and the laundry.

4 Q What did you do?

5 A Later I got a chance to work in my pod where I was -- my
6 job was cleaning the shower.

7 Q So why did you sign up to work?

8 A Because I have no money and also I want to do that to help
9 myself, to have some money to get some commissary like
10 biscuit or toothpaste. Also, soup, we call it soup, and also
11 make a call to my brother to have some of my paperwork to --
12 journey for my immigration court, to make a call back home.

13 Q You mentioned buying biscuits and noodles. Why were you
14 buying food from the commissary?

15 MS. SCHEFFEY: Objection, relevance.

16 THE COURT: Overruled.

17 BY MR. WHITEHEAD:

18 Q You can answer.

19 A Sometimes in detention, they might present the food, maybe
20 if I don't want to eat that kind of food when they presenting
21 me, I can use the biscuit or the soup as alternative. If I
22 don't want to eat the food, then I can use it to alternative
23 of food.

24 Q What was the food like at the Northwest Detention Center?

25 A Yeah, you know, you have no choice what they present to

1 you to eat. I eat the food. Sometimes I don't eat. That's
2 the reason why I have the biscuit and the soup, yeah.

3 Q You signed up to work. Did they let you work right away?

4 A No, I got to apply when they are vacant.

5 Q Did a job open up for you?

6 A Yeah, when the job opened up for me.

7 Q What was the job that you did?

8 A I cleaned the shower in my pod.

9 Q Your pod, how many men lived in your pod?

10 A I didn't count them. I will say approximately 50 or 60.
11 I didn't count them. There were enough in the pod. I didn't
12 count them.

13 Q You all used the same showers; is that right?

14 A Yeah, I used the same shower I clean for everybody.

15 Q How dirty would the showers get after that many men used
16 them?

17 A They are dirty because a lot of people use them, a lot of
18 soap, a lot of hair, a lot of human spit in the shower. Just
19 a number of people use it because it is mandated that
20 everyone has to take shower so that everybody going to look
21 good and they smell. Yeah.

22 Q Your job as a shower cleaner, did anyone train you how to
23 do your job?

24 A When I got the job, the officer in the pod appoints one
25 detainee who also show me how to apply the materials, who

1 show me how to do it.

2 Q Well, I would like to bring up another picture for you.

3 MR. WHITEHEAD: This is Exhibit 522. This has been
4 previously admitted.

5 BY MR. WHITEHEAD:

6 Q In a moment, a picture will show up. My question is this:
7 What are we looking at?

8 A Yeah, this is exactly what I clean, yeah. Right.

9 Q I would like for you to take us from start to finish in
10 the job that you did.

11 A Could you repeat sir.

12 Q Tell us about the work you did. What was the first thing
13 you would do when it was time to clean the shower?

14 A At first, I would dig the soap label, then I dig the
15 particles, the unfinished soap and the hair that try to block
16 the drain in the bathroom. I make sure that I pick up all
17 those things first. Make sure that the drain is open very
18 well so that the water after take -- after taking the shower,
19 the water going to go through the drain. I make sure all
20 drain in this room, make sure all the drain is free to enable
21 the water when taking the shower to go through. I wipe all
22 those thing, put them in the trash, you know, trash can.

23 Then first of all, the officer in the pod going to open a
24 room. We are going to take the material because I have no
25 power of my own to take those things I am going to use, the

1 material. The officer going to open the room where I will
2 get all the material, the tools I am going to use. I get the
3 water from a room close, yeah, close to this room. This one
4 here, the person that use this one, disabled people, there is
5 a room close to that room where the materials we use. They
6 got them there.

7 Q I hear you saying materials, are you talking about the --
8 what you would use to clean?

9 A Yeah, what I mean material, the tools we use, all the
10 tools we use.

11 Q You told us about picking up labels, cleaning out the
12 drains, getting the supplies from the closet, what would you
13 do next?

14 A After I remove all the hairs and I clean it, I took the
15 water mixed with chemical and soap, the water there, then
16 that water should be warm water, not cold water. I use it
17 and apply it to the first room, then rub it on the wall, on
18 the drain, make sure I scrub it. After scrubbing it, I am
19 going to use fresh water, apply the fresh water to rinse it.
20 I must do it from the beginning to the end of all this room.

21 MS. CHIEN: Mr. Whitehead, I want to pause because I
22 think we might have lost a juror.

23 MR. WHITEHEAD: Thank you, Ms. Chien.

24 Mr. Nwauzor, hold on one moment.

25 Your Honor, this is around the time we take our afternoon

1 break.

2 THE COURT: Let me find out what is going on here
3 first.

4 THE CLERK: We appeared to have lost Juror No. 6.
5 She's not on the meeting anymore. She's just rejoining now.

6 THE COURT: Where is she?

7 THE CLERK: Just a moment. She's joining now.

8 THE COURT: Okay. Did you miss very much, Juror
9 No. 6?

10 JUROR NO. 6: Yes. I am so sorry. I seemed to have
11 an issue there for several minutes.

12 THE COURT: Okay. Let's take a break and we will
13 figure out what we ought to do about that.

14 JUROR NO 6: Your Honor, if it would help, I -- the
15 last note I made was to pull up Exhibit 522, I believe.
16 That's when my -- I lost connection. I am very, very sorry.

17 THE COURT: That's all right. Thank you. We will
18 take our break and come back at 25 minutes to three. You may
19 be excused.

20 (The following occurred outside the presence of the jury.)

21 THE COURT: I assume we should read the testimony to
22 her from when Exhibit 522 was put on the board.

23 Angela, are you up to doing that?

24 COURT REPORTER: Yes, Your Honor.

25 THE COURT: That's what I was going to suggest, we do

1 a special reading for Juror No. 6. You all agree that's the
2 appropriate way to deal with that?

3 MR. WHITEHEAD: I do, Your Honor.

4 THE COURT: We will do that after we take our break.

5 (Recessed.)

6 (The following occurred outside the presence of the jury.)

7 THE COURT: Tyler, can we get the one juror back in?

8 THE CLERK: We can.

9 THE COURT: Ms. McDonald-Poper, we are going to
10 read -- the court reporter will read what you missed to you.
11 We will read the evidence to you, the testimony of
12 Mr. Nwauzor.

13 MR. WHITEHEAD: With permission, may we also show the
14 exhibit while the testimony is read?

15 THE COURT: Yes.

16 (Reporter read back the requested portion.)

17 THE COURT: Bring the rest of the jurors in, please.

18 (The following occurred in the presence of the jury.)

19 THE COURT: We lost Juror No. 6, Ms. McDonald-Poper,
20 for a minute. We had the court reporter read the part she
21 did not hear. So now we are ready to continue with
22 Mr. Nwauzor's testimony.

23 Mr. Whitehead.

24 BY MR. WHITEHEAD:

25 Q Mr. Nwauzor, you were describing for us your work in

1 cleaning the showers in your pod. Can you continue where you
2 left off in terms of telling us what you would do to clean
3 the showers, is there anything else you would do?

4 A Then after doing all the -- you know, I am going to use
5 fresh water, you know, flush it on the ground, make sure the
6 hallway through all this shower rooms, make sure I apply the
7 same chemical, the water, you know, with the soap, scrub it
8 on the ground so that the place going to be clean. Also use
9 a mop to mop, you know, mop on the ground of this shower
10 room. On the hallway, same time I apply the water, scrub it
11 with the mop. They are going to use the fresh water, apply
12 it so that it will enable it to be very dry and clean,
13 because if I didn't apply the fresh water, then going to be
14 slippery, people going to fall. First of all, I going to
15 make sure I apply the water mixed with the chemical or with
16 the soap. Later, I am going to use the fresh water to clean
17 it off and dry it so that no one going to fall. Later, I
18 going to pick up, I am going to take all the material, clean
19 them and put it back to where I got them. Then I will go to
20 the pod officer in charge that moment of the time I am doing
21 the job and sign the paperwork that I am finished with the
22 job.

23 Q The work that you just described for us, cleaning the
24 showers, how often would you do that job?

25 A I do it every day.

1 Q How long would it take you to clean the showers in the way
2 you just described for us?

3 A One hour plus.

4 Q When you were done cleaning the showers, you said you
5 would go to the GEO officer. Do I have that right?

6 A Yes, sir.

7 Q Did anyone ever check your work to see if you did it
8 right?

9 A Yeah, because the officer in charge of the pod always tell
10 us that if you don't perform good job, they are going to, you
11 know, take away the job from that individual doing that job.
12 Also, when I was there, I observed one guy from a Spanish
13 country, I don't know exactly the country, he lost the job
14 because he couldn't perform good job. One guy took the job
15 from him because he was doing bad job.

16 Q How much did GEO pay you to clean the showers?

17 A One dollar.

18 Q When you took the job, did you know the pay was one
19 dollar?

20 A Yeah, I know it is one dollar. I need --

21 Q Why did you work?

22 A Could you please --

23 Q Knowing that it was only one dollar a day, why did you do
24 the job?

25 A I do the job because I need the money desperately. The

1 situation I find myself, I have no money to make a call to
2 call my brother back home, as I told you, concerning my case
3 to get some of my necessary documents to back up my case.
4 Also, use it to help myself to get some of the commissary
5 which I told you earlier like biscuits or toothpaste, the
6 soup.

7 Q Were you granted asylum?

8 A Yes, sir.

9 Q Do you know when?

10 A It was 24 January 2017, I was granted asylum.

11 Q Is that date special to you?

12 A I will never forget it in my life until I die. It is a
13 wonderful day which I will never forget.

14 Q Why is that, sir?

15 A Happy finding myself in America where I feel 100 percent
16 protected. Give me a very wonderful joy.

17 Q When you were released from the Northwest Detention
18 Center, where did you go?

19 A The day I was released from the detention, there is this
20 organization called Aid Northwest. I met them at the
21 detention center gate, they took me.

22 Q Did they help you find a job?

23 A Yeah. From that moment, you know, the day I was released,
24 like what I tell you, I will never forget that day. I was
25 full of happiness, full of joy because I was traumatized and

1 depressed. I am thinking all hope is gone in my life. When
2 I came out that day, what Northwest Aid did to me really give
3 me more happiness and more life by consoling me, took me to a
4 particular place where I met other people who were -- they
5 are asylum like me in Tacoma. Then the others started
6 processing our working permit, apply for a working permit for
7 me, all the necessary documents which I don't know, they help
8 me to apply all those things. They get me with other people,
9 engage in us in one other organization in Kent. They called
10 them World Relief. They move us from Tacoma to World Relief.
11 When we get to World Relief, I met other people from
12 different country also who also win the asylum like me. Then
13 they engage us, World Relief engage us in English education,
14 orientation, how to behave ourselves in America, how to
15 adopt -- know how to walk in traffic, how to use Orca cards,
16 how to speak English. I write in English. Back home in
17 Nigeria, I told you my language is Igbo. They tell us how to
18 speak English. A lot of things, how to know how America
19 work. If you are a good person in America, don't violate the
20 law, don't violate the traffic. I learned the laws from
21 World Relief.

22 Q At some point, you got a job at a hotel. Do I have that
23 right?

24 A Yes, sir, through the help of World Relief, they engage us
25 in such in (inaudible) from immigrants.

1 Q Where did you work?

2 A I work at the Courtyard Marriott downtown.

3 Q What did you do at the Courtyard Marriott?

4 A Room maintenance.

5 Q What sorts of things did you do as maintenance?

6 A Making sure that the vents in the room, the air filter,
7 change the air filter, make sure the air filter is clean.
8 Then I clean the shower. The tile. Make sure the tile is
9 clean. I do caulking, you know, caulking. I learn how to do
10 this in Marriott. Great opportunity for me to do some handy
11 work when I got there.

12 Q How much were you paid for the work you just described?

13 A They paid me \$15 beginning. They told me if I perform a
14 very nice job, I will -- they are going to be adding more pay
15 for me based on my performance. For the period of time -- I
16 got the job in middle of 2017. By 2018 -- 2015, I got an
17 award as employee of the month and issued a certificate by my
18 manager for work performance. They add more money and one
19 day off paid for my good performance in 2015.

20 Q Did you pay taxes? Did they take taxes out of your
21 paycheck at the Marriott?

22 A My manager told me when I enroll, they call it medical.
23 They said they are going to have medical insurance, that will
24 be taking some of my money from my paycheck and everything,
25 yeah.

1 Q Sir, I guess I have one last question for you. Why did
2 you want to be a part of this lawsuit?

3 A After GEO, you know, took advantage of us the work in that
4 facility when I was there.

5 MR. WHITEHEAD: Thank you for answering my questions.
6 Ms. Scheffey, opposing counsel, may have some questions for
7 you.

8 CROSS-EXAMINATION

9 BY MS. SCHEFFEY:

10 Q Good afternoon, Mr. Nwauzor. Can you hear me?

11 A I hear you very well.

12 Q I will tell you ahead of time sometimes I talk too fast.
13 You testified earlier you are here today because you cleaned
14 the shower while detained by ICE; is that correct?

15 A Yeah.

16 Q You cleaned the showers in the afternoon; is that right?

17 A Yes.

18 Q Is it your testimony today people in your pod did not
19 clean up after themselves and that is why the showers were
20 dirty when you cleaned them?

21 A Excuse me?

22 Q Is it your testimony today that the other people who you
23 lived with in the pod didn't clean up after themselves which
24 made your job harder?

25 A I am the one assigned to clean the shower. Unless you are

1 assigned to do the job, you cannot go to the shower and clean
2 it.

3 Q The other people in your pod, even if they weren't in the
4 work program, they cleaned up after themselves, correct?

5 A I said I clean after. Unless you are the one assigned to
6 clean the job and paid like me, I am paid.

7 Q So no one in your housing unit took pride in keeping their
8 living unit clean?

9 A Other people, as you said, clean. I work afternoon.
10 Other people that clean in the night. I work. My own time
11 is afternoon.

12 Q Yeah, if I am understanding correctly, you are saying
13 there was another voluntary worker who volunteered to clean
14 at a different time; is that right?

15 A Yeah.

16 Q What about the other people who weren't part of the
17 voluntary program, did they take pride in keeping the unit
18 clean?

19 MR. WHITEHEAD: Objection. I don't think he knows
20 what other people think.

21 THE COURT: Sustained.

22 BY MS. SCHEFFEY:

23 Q Mr. Nwauzor, is it your testimony today the other people
24 in your living unit that were not part of the voluntary work
25 program were dirty?

1 A I said I am being paid. It is not everybody in the pod is
2 cleaning. It is only the people being paid are the ones
3 responsible for cleaning the shower in our pod. I clean in
4 the afternoon.

5 Q Did you have -- do you remember having your deposition
6 taken in this case?

7 A Deposition?

8 Q Yes, do you remember having your deposition taken in this
9 case?

10 A No.

11 Q You don't remember giving a statement and Mr. Whitehead
12 was there and there was another attorney, you were asked
13 questions?

14 A You asked me how many minutes, how many hours it took. I
15 know I had a deposition. I thought you asked me how many
16 hours. I don't know how many hours or minutes.

17 Q You had a deposition?

18 A I had a deposition.

19 Q You remember you agreed to tell the truth during that
20 deposition?

21 A Yeah.

22 Q So what I would like to play for you is a clip from the
23 deposition starting at Page 68, Line 23, going to 69, 20.

24 MR. WHITEHEAD: Wait a second. If we could stop the
25 video for a second. I am trying to figure out what the

1 impeachment is. I haven't heard the witness commit to an
2 answer and haven't heard him confronted with an
3 inconsistency.

4 MS. SCHEFFEY: He's committed to the fact the
5 voluntary workers are the only ones that clean the pod. I am
6 showing him the answer now. I have given two lines.

7 MR. WHITEHEAD: This illustrates why this is improper
8 impeachment. I don't know if that was the line of
9 questioning counsel asked.

10 THE COURT: I think Mr. Whitehead is right. I don't
11 know where you are going with this.

12 MS. SCHEFFEY: I am following what Mr. Whitehead has
13 done previously. I can lay more foundation, if you would
14 like.

15 THE COURT: There is a difference between impeachment
16 and using testimony for other purposes. Further foundation
17 would be appropriate.

18 MS. SCHEFFEY: We can take the video clip down for
19 now.

20 MR. WHITEHEAD: In the event Ms. Scheffey plans on
21 showing other clips, GEO did not file deposition designations
22 for Mr. Nwauzor.

23 MS. SCHEFFEY: Your Honor, we don't have to file
24 designation for impeachment.

25 THE COURT: Go ahead. What is the next question?

1 BY MS. SCHEFFEY:

2 Q So, Mr. Nwauzor, are you testifying today that everyone
3 else who you lived with, if they weren't in the voluntary
4 work program, they didn't clean up the showers?

5 A I said I clean afternoon. I clean afternoon in my pod. I
6 am the only one assigned to clean the pod in the afternoon.

7 Q Did anyone else clean the showers other than you?

8 A Other people get their own sheet. The only people that
9 clean the shower is the people paid. Not everybody in the
10 shower clean -- in my pod cleaned the shower. The only
11 people that cleaned the shower are the people paid by GEO.

12 Q The only people who cleaned are the people paid by GEO, is
13 that what you said?

14 A The shower, yes.

15 Q I would like you to turn to Page 68 of your deposition,
16 Line 23. Do you see where you were asked if the people in
17 G-2 took pride in keeping their living space clean?

18 A Yes, I said not the shower, the pod, sometimes we
19 volunteer to clean. Sometimes within the week, we do
20 volunteer to clean the general pod. A kind of free to clean.
21 Not every time. There are people assigned as their job to do
22 it. Sometimes, we do help ourselves. During my deposition,
23 I said volunteer is a kind of way you do work not paid.

24 Q I would like to focus on what your deposition said. "The
25 people in G-2 took pride in keeping their living space

1 clean." Do you see that on the deposition?

2 A That is what I am trying to explain to you.

3 Q I would like to be more specific. Do you see your answer
4 was, "Yeah"?

5 A Not shower, people --

6 MR. WHITEHEAD: Mr. Nwauzor, hold on one second.

7 Ms. Scheffey, objection. If you are going to read from the
8 transcript, you have to read his complete answer.

9 MS. SCHEFFEY: I am trying, Jamal, and I would like
10 to play the clip because every time I try, he won't go to the
11 transcript. I am asking him to look at the transcript. He's
12 not looking at it.

13 Your Honor, may I please play the clip?

14 THE COURT: If you would simplify your questions, it
15 would be much easier to communicate.

16 What is the next question to the witness?

17 BY MS. SCHEFFEY:

18 Q Do you see after you were asked that question, your answer
19 starts with "yeah" in the transcript?

20 MR. WHITEHEAD: Hold on one second. The transcript
21 is in there. We are going to grab the transcript.

22 THE COURT: Are we ready?

23 Mr. Nwauzor, I understand that English is your second
24 language. Can you read English?

25 THE WITNESS: Yes, a little.

1 THE COURT: Okay. Thank you. Go ahead,
2 Ms. Scheffey.

3 BY MS. SCHEFFEY:

4 Q Do you have your deposition in front of you, Mr. Nwauzor?

5 A Yeah, I have deposition.

6 Q In response to, "So the people in G-2 took pride in
7 keeping their living space clean." You started with, "Yeah."
8 Do you see that part of the deposition?

9 A What paragraph?

10 Q You are at Page 68, starting at Line 23.

11 A Page 68. Okay.

12 Q Do you see where you said, "Yeah, also it is not everyday
13 that we done our job, maybe once in the week."

14 MR. WHITEHEAD: Objection.

15 Mr. Nwauzor, hold on.

16 Objection. Ms. Scheffey, if you are going to read from
17 the transcript, you need to read his complete answer.

18 MS. SCHEFFEY: I am trying to break it down into
19 manageable parts. I will get there.

20 MR. WHITEHEAD: Improper impeachment.

21 THE COURT: We have lost the question that was asked
22 in the deposition by now. What is the question and the
23 complete answer, and then you can ask the witness?

24 BY MS. SCHEFFEY:

25 Q You see where you were asked, "So the people in G-2 took

1 pride in keeping their living space clean?" You responded,
2 "Yeah, also it is not every day that we done our job, maybe
3 once in a week, but there are also people employed assigning
4 to be cleaning, cleaning the area. The voluntary is not
5 every day. There are people assigned to be doing that job.
6 They are also paid in the way I have been paid for a dollar a
7 day shower I am cleaning." Do you see that?

8 A I said -- I don't know here. What I said maybe due to my
9 English. Maybe didn't understand how I explain it. I told
10 you I am not perfect in English. What I told him that I did,
11 I said in my pod sometimes people in there clean the pod, not
12 the shower. The table where we eat, you know, everybody eat,
13 sometimes, but there are people assigned to do that job.
14 They do it every day. The shower is different. Shower,
15 nobody clean. The shower is my job.

16 When I talk about people in the pod cleaning, I am talking
17 about the hall where people eat. I am not talking about the
18 shower. Nobody cleaned the shower apart from me and other
19 people assigned to that job. Didn't include shower. What I
20 meant I take pride, yeah, we take pride. Other people do it
21 in different pods once in awhile. There are people assigned
22 for cleaning the whole hall.

23 Q Thank you. So before you received a position in the
24 voluntary work program as a shower cleaner, did you clean up
25 the shower after yourself when you used it?

1 A No.

2 Q You left your mess for someone else?

3 A When I -- until I got the job, I don't clean the shower.
4 There are people assigned to do it which GEO paying them one
5 dollar. I never any day clean the shower. When I start
6 cleaning the shower, when I sign for that job, that was the
7 time I start cleaning the shower.

8 Q Thank you. That helps me understand.

9 You cleaned the showers in the afternoon; is that
10 right?

11 A Yes.

12 Q Other people cleaned the showers in the evening, right?

13 A Yeah, I cleaned the shower. I -- because of my job, I
14 clean afternoon. Other people assigned for the same job.

15 Q Cleaning the showers in the afternoon was the only task
16 you did as part of the voluntary work program, correct?

17 A Yes.

18 Q That's the reason you are suing GEO, correct?

19 A Yes.

20 Q You signed an agreement where you understood that the
21 compensation would be one dollar per day, correct?

22 A I signed the agreement because I needed the money. I
23 needed the money to get other things, to make a call and to
24 get commissary. I needed assistance.

25 Q You did not sign up to volunteer until five months after

1 you arrived, correct?

2 A I can't remember when I signed into the work. I can't
3 remember. Maybe GEO have the record. I can't remember. All
4 I know is I work.

5 Q I would like you to take a look at Exhibit 302, which
6 should be in front of you.

7 A Where?

8 MR. WHITEHEAD: Mr. Nwauzor, there is an envelope in
9 there. If you open it up, there should be an exhibit in
10 there.

11 Q Do you have Exhibit 302 in front of you?

12 A Yes, I have it.

13 Q Do you see at the top of the document there is an A
14 number, starting with 209?

15 A Excuse me?

16 Q Do you see at the top of the document an A number,
17 starting with 209?

18 A No, I don't have anything 209 here.

19 Q Do you see your name at the top of that document?

20 A Is it a work program agreement?

21 Q No, that might be a different one. Let's start with that
22 if you have it in front of you.

23 Do you have something called A-303 at the top which is
24 a work program agreement?

25 A I have A-302, yeah.

1 Q Does that document -- at the bottom, is that your
2 handwriting where it says Nwauzor?

3 A Yeah.

4 Q Is that your A number, where the number starts with 209?

5 A Yeah, 209, yeah, yes.

6 MS. SCHEFFEY: I offer Exhibit A-303 into evidence.

7 MR. WHITEHEAD: No objection.

8 THE COURT: A-303 may it be admitted.

9 (Exhibit A-303 was admitted.)

10 Q So this document you signed says, "Compensation shall be
11 one dollar per day," in Item 7 at the top there, do you see
12 that?

13 A Yeah, I see it.

14 Q The date you signed this document was 11-10-2016. Do you
15 see that?

16 A Yeah, I see it.

17 Q Do you have any reason to believe that you -- if I told
18 you the date GEO has that you began your detention was May
19 24th, 2016, would you have any reason to doubt that?

20 A I have no reason. That is the record.

21 Q So if we could try again, I would like you to look at
22 Exhibit A-302. Do you have that document in front of you?
23 It looks like a listing of typed numbers and descriptions?

24 A Yes.

25 Q Do you see your A number at the top of that document?

1 A The A-302.

2 Q A-302 is the exhibit number. A little below it, it says
3 "resident account summary"?

4 A Yeah, I see my number.

5 Q Do you see your name on it?

6 A I see my name.

7 Q Do you have any reason to believe this is an inaccurate
8 accounting of your expenses while you were detained?

9 A Please could you repeat.

10 Q Yeah. Do you have any reason to believe this is not an
11 accurate reflection of your payroll while you were detained?

12 A I have no reason to say no.

13 MS. SCHEFFEY: I offer A-302 into evidence.

14 MR. WHITEHEAD: Your Honor, I would object just to --
15 purely from a foundational standpoint. This is a printout.
16 I have never seen it before. Mr. Nwauzor certainly didn't
17 prepare it. I don't see how this is an admissible document
18 through this witness.

19 THE COURT: Foundation is inadequate, counsel.

20 BY MS. SCHEFFEY:

21 Q I will take that down. Let's talk a little bit amongst
22 ourselves, instead of messing with these documents. A minute
23 ago, we saw a document, if we could pull it back up. I
24 believe it was A-303. Do you have it in front of you?

25 A Yes, I can see it.

1 Q They should be putting it on the screen. You signed that
2 document on November 10th, 2016, correct?

3 A Yeah. That's what it shows here, yes.

4 Q You testified earlier you had to wait before you could get
5 a position in the voluntary work program; is that correct?

6 A Can you repeat?

7 Q Yeah. You testified earlier that you had to wait before
8 you could get a position in the voluntary work program; is
9 that right?

10 MR. WHITEHEAD: Objection, misstates prior testimony.

11 THE COURT: Sustained.

12 BY MS. SCHEFFEY:

13 Q You testified earlier that you were on a waiting list
14 before you were able to be a shower cleaner, correct?

15 A Yeah, what I said, we get the job, the way you get the job
16 when it is open, when the person who is doing the job either
17 had been deported or he lost the job or one of two things.
18 That's the only way you get the job. That's what I mean.

19 Q So before that other people was deported, you were not the
20 shower cleaner, correct?

21 A I am not saying somebody deported. I am telling you the
22 vacancy been created. I doubt somebody been deported or win
23 his case, that's when the job open or the person who is doing
24 the job is tired of doing the job. It is going -- the job is
25 going to be open. The officer in charge going to announce if

1 anyone is interested to catch up the job.

2 Q Okay. So there was a period of time, correct, where you
3 were not the shower cleaner while you were detained, right?

4 A Yeah, another person was doing the job.

5 Q That period was about five months, correct?

6 A I can't -- something.

7 Q During that time when you didn't have a voluntary work
8 program position, you still made phone calls, right?

9 A What you say?

10 Q You still made phone calls during that time, correct?

11 A That's something I can't remember when I am making call.
12 When I get the job -- remember, when I get there I have some
13 money. They tell us they are going to deposit money in our
14 account. Something of that nature. When I get to the
15 detention, we have the money. They said they are going to
16 open an account for us if you have the money. They are going
17 to put it in our account in our name. Then I remember -- I
18 can't remember if I start the job, start making call. I did
19 make a call. When I start making the call or when I start
20 getting the job, I don't remember.

21 Q Were you fighting your case the entire time you were in
22 the detention center?

23 MR. WHITEHEAD: Objection, argumentative.

24 THE COURT: I don't think so. You might define what
25 case you are referring to.

1 BY MS. SCHEFFEY:

2 Q Were you fighting your immigration case the entire time
3 you were in the detention center?

4 A Yeah.

5 Q You testified earlier that you needed to make phone calls
6 as part of fighting your case, correct?

7 A Yeah, I called my brother.

8 Q You were able to call your brother for the entire time you
9 were in the detention center, correct?

10 A When it is necessary. I don't call my brother for
11 nothing. I call my brother for the documents I need.

12 Q Okay. You were able to call your brother before you
13 started participating as a shower cleaner, correct?

14 A That's what I am trying to tell you, that I can't remember
15 if I start calling my brother when I start cleaning the
16 shower. I can't remember. Yeah.

17 Q Okay. You had your choice of different positions in the
18 voluntary work program, correct?

19 A Can you repeat, please.

20 Q Yeah. You had a list of different options you could
21 choose from for participating in the voluntary work program,
22 correct?

23 A Yes.

24 Q You chose shower cleaner, correct?

25 A Yes.

1 Q You didn't have to interview to get that position, right?

2 A No.

3 Q You didn't have to show you were previously a really good
4 shower cleaner, right?

5 A Somebody showed me how to use the stuff when I got the
6 job.

7 Q Those were the showers you used, right?

8 A Yeah, that's the shower I also used.

9 Q Did you always clean the showers at the same time every
10 day?

11 A Yeah, every afternoon, every day.

12 Q After cleaning the showers, you were able to spend the
13 rest of your day working on your immigration case if you
14 wanted, correct?

15 A Immigration case?

16 Q Yes.

17 A I only work on my immigration case when my attorney came
18 for me. They are going to call me out to see my attorney.

19 Q If you weren't working on your immigration case, you could
20 watch TV, right?

21 A Please, I didn't understand what you mean.

22 Q If you were not working on your immigration case, you
23 could watch TV, correct?

24 A I normally stay in the room or read my Bible because I am
25 afraid. A lot of things going on within me. I don't know

1 what going to be my status. Yeah.

2 Q You were able to go to church while you were detained?

3 A Yes.

4 Q Were you able to exercise while you were detained?

5 A Not every time. I do go outside with them on the
6 playground to see if I can get some sunshine, yeah.

7 Q While you were detained, someone else did your laundry,
8 right?

9 A Could you repeat, please?

10 Q While you were detained, someone else did your laundry,
11 correct?

12 A Yeah, there are other detainees that work in laundry.
13 They had the ability to wash our clothes. They bring some
14 stuff there, we dump our clothes, they took it to laundry.
15 That's the area they are working in detention, too.

16 Q Did you send your clothes to the laundry before they were
17 really, really gross?

18 A Excuse me, please?

19 Q Did you try to send your clothes to the laundry regularly
20 before they got really dirty?

21 A We have different clothes to change. Whenever the -- they
22 bring the bins, we dump our clothes, we have to change. You
23 know, you need to be neat, clean yourself. We are adults.
24 We are not playing around to be dirty. That's one of -- I
25 dump my clothes in a kind of cart. They took it to the

1 laundry. We have that one to change different clothes, yeah.

2 Q While you were detained, someone else helped clean up the
3 living area?

4 A Living area?

5 Q Pod or your housing unit?

6 A Yeah. I live in a room where I have my bed. I make my
7 bed when I wake up.

8 Q Okay. Someone else cleaned the tables where you ate,
9 correct?

10 A There is no table there. We eat outside the general
11 living room.

12 Q You call it a general living room. Does that have tables?

13 A Yeah, that is the hall. The hall where there is a TV. In
14 the room, no TV.

15 Q In the hall with the TV, someone else cleaned up those
16 tables, right?

17 A The whole hall when we eat, where you eat as an adult,
18 when you eat you need to clean up your mess where you eat.
19 We are adult, most of the people in the detainee are adult.
20 When I eat there, I make sure the table look neat. Which
21 that was the instruction given by us and by GEO, make sure
22 you clean your table. Don't mess around the table where you
23 eat.

24 Q You received dental care without paying for it while you
25 were detained, correct?

1 A Right.

2 Q You received medical care while you were detained without
3 paying for it, correct?

4 A Right.

5 Q You received mental health counseling while you were
6 detained without paying for it?

7 A Right.

8 Q You got those things whether or not you participated in
9 the voluntary work program, correct?

10 A I don't really understand what you mean by "voluntary
11 work."

12 Q You didn't have to participate in the voluntary work
13 program in order to get medical care, correct?

14 A Yeah.

15 Q After you left the Northwest ICE Processing Center, you
16 went to work at the Marriott, correct?

17 A Yes.

18 Q And did you work as a housekeeper at the Marriott?

19 A Yes, maintenance.

20 Q When you were there, did you have to clean other people's
21 showers?

22 A Other people's shower?

23 Q Yes, showers used by someone else, did you have to clean
24 those?

25 A Yeah, I was employed to do that and they pay me for that.

1 They employ me for that.

2 Q That job was a 40-hour-per-week position, correct?

3 A I believe.

4 Q You were expected to be there every day, right?

5 A Yeah, all day, every day. Also I have two days off. I
6 work five days.

7 Q You had to show up when you were scheduled, correct?

8 A Right.

9 Q You had to interview for that position, correct?

10 A Yes.

11 Q When you interviewed, did you tell them you had experience
12 cleaning showers at the detention center?

13 A In detention? Could you repeat?

14 Q Did you tell the person you interviewed with that you had
15 experience cleaning showers from your time at the detention
16 center?

17 A When I got the job, they also train me there. Yeah.
18 Detention, I don't clean vent. Marriott, I clean vent. Then
19 they have different, other additional job in Marriott which
20 is similar like cleaning is cleaning. I also clean. In GEO
21 detention, I don't clean vent. I don't do caulking. They
22 taught me there when I get to Marriott. When I was in GEO
23 detention, the detainee also taught me how to do it in GEO.

24 Q Fair to say your job at the Marriott had a lot more tasks
25 involved with it, right?

1 A Excuse me?

2 Q What you said is your job with Marriott had a lot more
3 tasks you had to do each day, correct?

4 A You asked me if I told them if I learn how to do it from
5 GEO. I said somebody taught me how to do it too when I got
6 to Marriott, what I do there. That's what I mean. Like
7 somebody taught me what I do in GEO, too. I don't get there
8 by myself. Somebody taught me how to do the job in GEO, too.

9 Q At the Marriott, if you didn't want to be a housekeeper
10 anymore, could you just stop showing up and ask to get on the
11 wait list to be a front desk clerk?

12 A Excuse me?

13 Q When you were working at Marriott, could you come in and
14 ask, I don't want to be a housekeeper any more, I want to
15 work at the front desk, put me on the wait list?

16 A No. There are jobs here in America that has education.
17 Front desk, as you said, they have to speak English for you
18 to be customer service, for me to apply such a job.

19 Q They have a requirement at Marriott that you have to be
20 fluent in English to be in customer service; is that right?

21 A I am just talking with my experience because I know I am
22 not fully in English. I know some boundary which I cannot
23 go. I cannot apply for front desk because I know the
24 consequences of much English and how to use -- you have to
25 know how to use the computer which I am not able doing those

1 things.

2 Q Did you have to be fluent in English to participate in the
3 voluntary work program?

4 A No. What I did is physical. They show me how to do it
5 whether I speak English or not. Someone have to give you
6 instruction, this is what you do, don't require much grammar
7 or English speaking. Physical, just do it, just learn how to
8 do it. What you said, front desk, you have to speak, you
9 have to write certain things.

10 Q You had to provide proof of work authorization through an
11 I-9 form to Marriott, correct?

12 A Hello.

13 Q You had to provide proof of work authorization to
14 Marriott, right?

15 A Yeah, I got to have that to work in Marriott, yeah.

16 Q While you were at the Northwest ICE Processing Center, you
17 didn't yet have work authorization, right?

18 A Yeah, because I didn't get the job by myself.
19 Organization of America which know background. I didn't get
20 it by myself. This organization tell them I am in the
21 process. After a couple more, everything came. I also
22 showed them my asylum granted for me to work. My asylum
23 document.

24 Q When you say after a couple of months everything came,
25 couple months after you were released from detention?

1 A Yeah, what I mean, what you asked me at the Marriott. I
2 said I didn't get the job by myself. I got it by the
3 organization in America, they engaged, enroll us in getting a
4 job and they know our documents and the process. They also
5 help us getting our documents done and that is how I see.
6 They are the one, the company where I got a job. Marriott.
7 I didn't get job by myself. World Relief Organization, they
8 know the process. I have already apply for it and it is
9 going to come. Also I have my immigration asylum granted and
10 work permit to work on the back of the document for me to
11 work.

12 Q I understand you worked with World Relief to get the
13 Marriott position. While you were working at the Marriott,
14 you still had to pay for your meals, right?

15 A Say?

16 Q You still had to pay for your own meals while you were
17 working at Marriott, correct?

18 A I still do what?

19 Q You paid for your own meals, your own dinner and lunch and
20 breakfast?

21 A Yes, Marriott, sometimes they give us food. They give us
22 in the hotel, we take breakfast with low price, someone who
23 is working there, yeah.

24 Q When you worked at Marriott, you had to do your own
25 laundry, right?

1 A My laundry?

2 Q You did your own laundry at home?

3 A I do my laundry and also, yeah, I do my own laundry.

4 Q No one pays you to do your laundry while you were working
5 at Marriott?

6 A No.

7 Q Do you like living in a clean house?

8 A Perfect. I love living in clean house.

9 Q If no one paid you, would you still keep where you live
10 clean?

11 A No one pay me in my house where I live.

12 Q You still keep it clean?

13 A Right.

14 Q Do you clean your shower in your apartment multiple times
15 a day?

16 A I clean my shower.

17 Q How many times a day?

18 A How many times I clean my shower?

19 Q Yeah, each day.

20 A Each day.

21 Q Each day once?

22 A I repeat what you said, how many times I clean my shower.
23 I say I clean my shower. My shower is always clean. I clean
24 my shower.

25 Q Since leaving the Northwest ICE Processing Center, you

1 have had roommates, right?

2 A Yeah, I had a roommate.

3 Q Did you ask your roommates to pay you minimum wage when
4 you cleaned the common areas in your apartment?

5 A Please, I don't get it.

6 Q When you vacuum your living room, did you ask your
7 roommate to pay you minimum wage?

8 A My room?

9 Q Your roommates, your housemates?

10 MR. WHITEHEAD: Objection, Your Honor.

11 THE COURT: Sustained.

12 BY MS. SCHEFFEY:

13 Q Let's get back to how you got here. You wanted to seek
14 legal citizenship in the United States, right?

15 A Yes.

16 Q That's why you presented yourself at a security checkpoint
17 seeking asylum, right?

18 A Yes.

19 Q You traveled really far to get to the United States to
20 seek citizenship, right?

21 A Yes.

22 Q Did you cross a lot of borders before arriving in the
23 United States?

24 A Yes.

25 Q You didn't stop at any of those countries and seek

1 citizenship, right?

2 A Yes.

3 Q You wanted to be a citizen in America?

4 A Yes.

5 Q It worked, right?

6 A Yes.

7 Q You knew that by seeking citizenship in the United States,
8 part of the process would possibly be detention, correct?

9 A Detention? I don't have idea what I am going to, where I
10 going to end when coming to America. I don't even get a job
11 in detention. This my first time I find myself --

12 Q You submitted yourself to the authorities in another
13 country, right?

14 A Another country?

15 Q In the United States, you submitted yourself to an ICE
16 official, correct?

17 A Yeah, when I came, yeah.

18 Q You wanted to follow the process legally, right?

19 A Yes.

20 Q When you arrived in Washington, you didn't have family you
21 could stay with, right?

22 A Yes.

23 Q You didn't have a reservation at a hotel where you could
24 stay, right?

25 A Yes.

1 Q I think you testified earlier you only had \$200, right?

2 A When coming, when I arrive at the detention, that's what I
3 had with me which GEO took out of me and keep it for me all
4 deposited in my account, yeah, when I came to America.

5 Q 200 is the right number, right? 200 is the right number?

6 A About 200 and something, yes, dollar, not 200, it is above
7 200. It is upper, maybe 300. It is not 200, 200, if I can
8 recall. Yeah.

9 Q It was ICE not GEO who detained you, correct?

10 A Okay.

11 Q It was ICE who detained you, correct?

12 A Yeah. I know the hand of America. America, yeah.

13 Q It was not GEO, right?

14 A What?

15 Q It was not GEO, right, it was the hand of America, as you
16 said?

17 A Yeah.

18 Q There was an immigration judge who you got to tell your
19 story to in the detention center, right?

20 A Yes.

21 Q And that's the judge who determined the outcome of your
22 asylum application, right?

23 A Yes.

24 Q The same day your immigration case resolved and you got
25 asylum, you were released, right?

1 A It took a process. I got the first one, hearing, then
2 postpone. Kind of a process before I got the final judgment.

3 Q You did get released after you received asylum, right?

4 A Yes.

5 Q It wasn't until your asylum case was resolved that you
6 were able to work legally in the United States, right?

7 A Yes.

8 Q Without those documents you received, you couldn't have
9 legally worked in the United States and supported yourself,
10 right?

11 A I believe so.

12 Q Now that you are in the United States, you no longer have
13 to worry about Boko Haram, correct?

14 A Yeah.

15 Q You are not here today to seek relief from Boko Haram,
16 right?

17 A Excuse me, could you repeat?

18 Q You are not here to sue Boko Haram today, right?

19 A No.

20 Q You are not here to challenge the commissary prices,
21 right?

22 A Yes.

23 Q You are not here to challenge the phone prices in
24 detention, right?

25 A Yes.

1 Q You are not here to challenge the type of food that they
2 serve in the detention center, right?

3 A Yes.

4 Q Your only claim today is you believe you were an employee
5 of GEO when you cleaned the showers, right?

6 A Yes.

7 MS. SCHEFFEY: No further questions.

8 THE COURT: Mr. Whitehead?

9 MR. WHITEHEAD: Nothing, Your Honor. I don't have
10 any further questions.

11 THE COURT: Thank you, Mr. Nwauzor. You may be
12 excused.

13 Next witness.

14 MR. POLOZOLA: The State will call its last witness,
15 Mr. Robbin Gard. I understand he should be calling in now.
16 We may need just a moment for Tyler to get him in.

17 MS. SCHEFFEY: We object to this witness. If we
18 could have a brief sidebar outside the presence of the jury.

19 THE COURT: I don't do sidebars. What is it you want
20 to raise?

21 MS. SCHEFFEY: Your Honor, Mr. Gard has no relevance
22 to this case. He has no firsthand knowledge about the
23 Northwest ICE Processing Center, about the detainees.

24 THE COURT: We will see. Is this something that --
25 it is not something you can't handle as the testimony goes

1 on? He is on his way. The name of the witness, please,
2 again?

3 MR. POLOZOLA: Robbin Gard, yes, Your Honor.

4 THE CLERK: They have just been admitted.

5 THE COURT: Here is Mr. Gard. If you will raise your
6 right hand and be sworn.

7 ROBBIN GARD,

8 having been sworn under oath, testified as follows:

9 THE COURT: You may inquire, Mr. Polozola.

10 DIRECT EXAMINATION

11 BY MR. POLOZOLA:

12 Q Good afternoon, Mr. Gard. Thank you for being with us
13 today. Can you take a brief moment and introduce yourself to
14 the Court and jury?

15 A Robbin Gard. I am a resident of Pierce County, here in
16 Washington.

17 Q Mr. Gard, where do you work?

18 A I work for the Employment Security Department at Work
19 Source Pierce in Tacoma.

20 Q Is the Employment Security Department a Washington State
21 agency?

22 A It is.

23 Q How long have you held your current job?

24 A I have worked for Employment Security Department since
25 June 16th of 2016.

1 Q What did you say your current position was with the
2 Employment Security Department?

3 A Right now, I am a supervisor, front end supervisor,
4 resource room supervisor at Work Source.

5 Q So what are your duties as a Work Source supervisor?

6 A I oversee a team of about ten other Work Source
7 specialists and supervise day-to-day activities for them.

8 Q Prior to becoming a supervisor, did you hold any other
9 positions with the ESD?

10 A I did. I started out as the Work Source specialist for
11 the Employment Security Department at the Work Source Pierce
12 office.

13 Q So what does a Work Source specialist do at ESD?

14 A So we greet individuals, job seekers as they come into the
15 office looking for assistance with their job search. We meet
16 with them regarding their resumes and cover letters, provide
17 reviews for them, help them with their job search strategies,
18 help them with identifying what their job skills are and how
19 to parlay those, in order to get a better job, into a career.
20 We make referrals for our Work Source partners for training
21 and community referrals as well.

22 Q You said this early on -- maybe I missed it -- where do
23 you work? Geographically speaking, where is your office?

24 A Geographically, we are at 2121 South 8th Street in Tacoma.

25 Q You serve job seekers in the Tacoma and the Pierce County

1 area looking for work?

2 A That is correct.

3 Q Before going to ESD, the Employment Security Department,
4 what did you do?

5 A Prior to joining ESD, I worked for the State of Montana
6 for the Department of Labor & Industry over there essentially
7 providing the same services to job seekers at the job office
8 in Kalispell, Montana.

9 Q How long have you been doing this type of work?

10 A Since February of 2010.

11 Q Let's take it back to ESD for a moment, for those of us
12 who aren't quite as familiar. At a high level, what does ESD
13 do for folks in Washington?

14 A ESD really has a couple of main functions. We act as
15 employment connections, helping people find jobs, connect
16 them to employers, and most people would see us as the
17 unemployment insurance department.

18 Q So there is kind of two parts of ESD. You are on the side
19 that helps folks look for work, find work, find employers in
20 the Tacoma area; is that right?

21 A That's correct.

22 Q You mentioned the term "work source." I just want to be
23 clear for everyone, what is Work Source?

24 A Work Source is a partnership of several community
25 agencies, non-profits, for-profits that work with job seekers

1 and work with employers to connect them to each other to get
2 employment.

3 Q ESD is one of the members of that group?

4 A That is correct. ESD, Employment Security Department, is
5 one of the partners within that. We all work under the
6 guidance of our Workforce Development Board, which is
7 Workforce Central in Tacoma.

8 Q So as a result of your work, supervising a team of folks
9 in Tacoma, helping folks look for jobs in Tacoma in the
10 Pierce County area, are you familiar with the Tacoma/Pierce
11 County labor market?

12 A Fairly familiar, yes.

13 Q How so? How are you familiar with it as a result of your
14 work?

15 A In working with individual job seekers, we have occasion
16 to look up what the local labor market economic and analysis
17 results are, which would indicate to us if somebody came in
18 looking for a specific job or employment opportunity, we can
19 look at the labor market information that is provided by the
20 Employment Security Department and inform and explain to
21 somebody how this occupation may be in demand, this
22 occupation may not be in demand for Pierce County and other
23 counties across Washington State.

24 MS. SCHEFFEY: Your Honor, I object to testimony
25 about the labor market analysis, which hasn't been disclosed.

1 Mr. Gard was neither disclosed as an expert nor qualified as
2 one.

3 MR. POLOZOLA: Your Honor, I am asking him about his
4 personal experience serving job seekers in this geographic
5 area.

6 THE COURT: Nobody has asked for his opinion yet on
7 anything. The objection is overruled without prejudice. Go
8 ahead, Mr. Polozola.

9 BY MR. POLOZOLA:

10 Q Thank you, Your Honor. Mr. Gard, where I was headed was
11 you have personal experience helping folks find work in the
12 Tacoma/Pierce County area, correct?

13 A Yes, I do.

14 Q In your prior experience, what types of jobs have you
15 helped individuals find in Tacoma and in the Pierce County
16 area?

17 A I have helped individuals find all types of jobs. I have
18 met with former politicians, I have met with actors, I have
19 met with individuals looking for server positions. I have
20 met with individuals looking for real estate positions.
21 Really, just a myriad of occupations throughout Pierce
22 County, throughout the state.

23 Q Are any jobs or occupations, lines of work more common
24 than others, in your experience?

25 A We see a lot of hospitality work in the area. That seems

1 to be prevalent.

2 Q Any others, if you are thinking of the most common job
3 seekers or types of work that folks are seeking?

4 A We see a real myriad. We have helped people in the
5 restaurant industry. I have worked specifically with
6 individuals looking for server positions, cook positions,
7 hospitality. A myriad of things to offer including linen
8 services, maids or clean up. Really running the gamut.

9 Q You kind of beat me to my next question which is, have you
10 ever assisted anyone looking for work as a cook or kitchen
11 worker in the Tacoma/Pierce County area?

12 MS. SCHEFFEY: Objection, leading.

13 THE COURT: He may answer.

14 BY MS. SCHEFFEY:

15 Q You may answer, Mr. Gard.

16 A I have.

17 Q What about as dishwasher?

18 A I have.

19 Q What about folks who work as -- as a janitor or custodian,
20 have you ever helped folks look for that type of work?

21 A I have.

22 Q Have you ever assisted anyone who works as a barber or
23 stylist, hairstylist?

24 A Yes, I have.

25 Q What about folks who do construction, paint, that type of

1 work, ever help folks find that type of work?

2 A I have helped individuals in construction and paint, both
3 commercial and residential.

4 Q Now that we have that baseline kind of established, I want
5 to kind of take it one by one again. Starting with folks who
6 are looking for work in kitchen, for example. What types of
7 employers, in your experience, have you helped folks try and
8 connect with in the Tacoma/Pierce County area?

9 MS. SCHEFFEY: Objection, relevance.

10 THE COURT: Overruled.

11 THE WITNESS: Can you repeat the question?

12 BY MR. POLOZOLA:

13 Q Starting with folks who are looking for work, for example
14 in kitchens as cooks or dishwashers, what types of employers
15 have you tried to connect those job seekers with?

16 A Depending on the level of experience, it could be fast
17 food restaurants, higher end restaurants, convention center,
18 caterers, it could be hotels that potentially have
19 restaurants within them. That type of thing.

20 Q Just to be clear, you have personally helped folks look
21 for those types of jobs in Tacoma?

22 A I have.

23 Q Would your answer be the same for -- well, let me back up.
24 You mentioned janitors or custodians, folks looking for that
25 type of work. What types of employers, in your experience,

1 have you tried to connect folks with in that line of work?

2 A Custodian or janitorial, very similar businesses because
3 everybody needs somebody there to clean up, to act in that
4 capacity. I have referred individuals to hotel/motels, state
5 hospitals, for instance, local schools, education system.
6 Places like that.

7 Q Places that have a lot of space that needs to be cleaned;
8 is that what you mean when you say "places like that"?

9 A Yes.

10 Q What about barbers, same question? Who is hiring barbers
11 in your experience in the Tacoma/Pierce County area?

12 A Yeah, most of my experience has been more with salons
13 rather than traditional barbershops. Anyplace that would
14 offer spa or salon work from the mall to again perhaps hotels
15 that might offer that to private ownership.

16 Q Kind of taking it back to the individuals you serve, you
17 have actually helped folks in the Tacoma/Pierce County area
18 look for that type of work, correct?

19 A I have.

20 Q I think we also mentioned painters or folks who do that
21 type of work. Same question. What types of employers in the
22 area are you trying to get folks connected with in your
23 experience in that field?

24 A In addition to businesses that specifically offer painting
25 services, perhaps apartment buildings, businesses that would

1 need maintenance either on site or on call, construction
2 companies, home builders, places like that.

3 Q You have personally helped folks look for that type of
4 work in the Tacoma/Pierce County area?

5 MS. SCHEFFEY: Objection, leading.

6 THE COURT: Leading.

7 BY MS. SCHEFFEY:

8 Q Mr. Gard, you just described certain types of employers
9 who may hire folks for painting jobs, for example. Let me
10 ask it a different way. How many folks, in your experience,
11 if any, have you helped try and find that type of work in the
12 Tacoma/Pierce County area?

13 A It is hard to put a number on that. I would like to say
14 in the dozens, but I honestly couldn't tell you a precise
15 number. We see people on appointment, we see people just
16 walking in to the resource room and walking out again. It is
17 hard to get any type of a specific number for that.

18 Q Let me ask a similar question, for example, for kitchen
19 workers whom you have assisted over the years. How many
20 would you estimate, how many folks would you estimate you
21 have helped try to find work working in a kitchen in the
22 Tacoma/Pierce County area?

23 A Same answer. In the dozens.

24 Q Personally?

25 A Yes.

1 Q You said you supervise a team of ten employment
2 specialists; is that correct?

3 A Currently, a team of ten employment specialists, yes.

4 Q Do those folks do the same type of assistance or offer the
5 same type of assistance that you are speaking to that you
6 have offered?

7 A They do.

8 MS. SCHEFFEY: Objection, vague.

9 THE COURT: He may answer.

10 THE WITNESS: The team I supervise does provide the
11 same type of service, yes.

12 BY MR. POLOZOLA:

13 Q Okay. I think I understand what you have done and the
14 experience that you have. Let me ask a different question.
15 In your experience, have you ever helped individuals in the
16 Tacoma or Pierce County area try to get a job that pays a
17 dollar a day?

18 A Never.

19 Q No. What kind of jobs are you trying to help folks get?

20 A We try to help folks obtain a living wage job. Minimum
21 wage right now is \$13.69 an hour. So those are the wages
22 that somebody should expect here in Pierce County. I have
23 never assisted anybody in trying to find a job for wages that
24 pay less than that.

25 Q Now, if I were to tell you that 85 new jobs became

1 available in the Tacoma/Pierce County area in areas like
2 kitchen work, laundry, painting, that kind of stuff,
3 custodial work, how would you respond to me telling you those
4 jobs were available?

5 MS. SCHEFFEY: Objection, leading. Calls for
6 speculation.

7 THE COURT: He may answer.

8 THE WITNESS: I would not be surprised. I would
9 think that is a low number right now.

10 BY MR. POLOZOLA:

11 Q Maybe I didn't ask it precisely enough. Let me ask it a
12 different way. If there were 85 additional jobs available in
13 Tacoma in those areas, would you help folks looking for those
14 types of work try and find those jobs?

15 A Yes, absolutely we would help folks with that, yes.

16 Q Okay, Mr. Gard. Thank you for your time. I think I have
17 done what I need. We are just about where I think the Judge
18 is going to call it quitting time. I will let the Judge say
19 that.

20 THE COURT: Well, you've got that right, except I
21 don't always call it quitting time. Sometimes it is just
22 time to go home.

23 You have cross-examination of Mr. Gard?

24 MS. SCHEFFEY: I do, Your Honor.

25 THE COURT: All right. I will have to ask you to

1 come back tomorrow, Mr. Gard, at 9:00. We will reconvene
2 then.

3 Again, let me remind the jury to follow my instructions
4 about recesses. Keep your minds open. Don't discuss the
5 case with each other or anyone else. Come back tomorrow
6 morning bright-eyed and bushy-tailed and ready to get back
7 into our case.

8 Okay. Thank you, folks. You may be excused.

9 MR. POLOZOLA: Thank you, Your Honor.

10 (The proceedings adjourned.)

11
12 C E R T I F I C A T E

13
14
15 I certify that the foregoing is a correct transcript from
16 the record of proceedings in the above-entitled matter.

17
18
19
20 /s/ *Angela Nicolavo*

21 ANGELA NICOLAVO
22 COURT REPORTER
23
24
25